

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for cancellation of CLEC Certificate No. 8410 by The Phone Connection, Inc., effective December 28, 2005. | DOCKET NO. 050967-TX
ORDER NO. PSC-06-0228-PAA-TX
ISSUED: March 20, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION ORDER
CANCELLING COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATIONS
COMPANY CERTIFICATE INVOLUNTARILY

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

The Phone Connection, Inc. currently holds Certificate No. 8410, issued by this Commission on December 1, 2003, authorizing the provision of competitive local exchange telecommunications service. Pursuant to Section 364.336, Florida Statutes, competitive local exchange telecommunications companies must pay a minimum annual Regulatory Assessment Fee of \$50 if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the Regulatory Assessment Fee return forms, for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. In addition, Rule 25-24.820, Florida Administrative Code, provides that a competitive local exchange telecommunications company requesting cancellation of its certificate must state its intent and date to pay the current Regulatory Assessment Fee. All entities that apply for certification receive a copy of our rules governing competitive local exchange telecommunications service.

On December 28, 2005, the Commission received a letter from the company dated December 20, 2005, which requested cancellation of its certificate and advised that it was not going to pursue its business expansion plan in Florida. The company returned the blank 2005 Regulatory Assessment Fee return notice with the letter but did not include payment of the

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minimum fee. On January 18, 2006, our staff faxed the company a note, along with the 2005 Regulatory Assessment Fee return form, and asked the company to pay the 2005 Regulatory Assessment Fee. As of February 7, 2006, payment has not been received.

For the reasons described above, we deny The Phone Connection, Inc.'s request for voluntary cancellation of its certificate. However, we find it appropriate to involuntarily cancel the certificate effective December 28, 2005, on this Commission's own motion for failure to comply with Rule 25-24.820, Florida Administrative Code, and pursuant to Section 364.336, Florida Statutes.

Since it appears The Phone Connection, Inc. does not provide service in Florida and has requested cancellation of its certificate, there would be no purpose in requiring the company to pay a penalty. By cancelling the company's certificate on this Commission's own motion, however, we would be able to track the company should it apply for another certificate with us in the future. The cancellation of the certificate in no way diminishes the entity's obligation to pay the applicable Regulatory Assessment Fee. If this Order is not protested, the company's CLEC Certificate No. 8410 shall be cancelled effective December 28, 2005. The collection of the past due fees shall be referred to the Florida Department of Financial Services for further collection efforts. If The Phone Connection, Inc.'s certificate is cancelled in accordance with this Order, the company shall immediately cease and desist providing competitive local exchange telecommunications service in Florida. If The Phone Connection, Inc.'s certificate is cancelled, and subsequently decides to reapply for a certificate as a competitive local exchange telecommunications company, the company shall be required to first pay any outstanding penalties and cost of collection and fees, including accrued statutory late payment charges. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.337, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED that pursuant to Rule 25-24.820, Florida Administrative Code, The Phone Connection, Inc.'s CLEC Certificate No. 8410 is hereby cancelled effective December 28, 2005, on this Commission's own motion for failure to pay the past due Regulatory Assessment Fee pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the collection of the Regulatory Assessment Fee shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

ORDERED that the cancellation of the certificate in no way diminishes The Phone Connection, Inc.'s obligation to pay the applicable Regulatory Assessment Fee. If The Phone Connection, Inc.'s certificate is cancelled, and subsequently decides to reapply for a certificate as a competitive local exchange telecommunications company, the company shall be required to first pay any outstanding penalties and cost of collection and fees, including accrued statutory late payment charges. It is further

ORDERED that if The Phone Connection, Inc.'s certificate is cancelled in accordance with this Order, The Phone Connection, Inc. shall immediately cease and desist providing competitive local exchange telecommunications service in Florida. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed upon receipt of the Regulatory Assessment Fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 20th day of March, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(SEAL)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 10, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.