

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of local exchange Certificate No. 8567, issued to Litestream Holdings, LLC, for apparent second-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 20210071-TX

In re: Compliance investigation of local exchange Certificate No. 8786, issued to Opextel LLC d/b/a Alodiga, for apparent second-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 20210081-TX
ORDER NO. PSC-2021-0158-PAA-TX
ISSUED: May 12, 2021

NOTICE OF PROPOSED AGENCY ACTION ORDER
IMPOSING PENALTIES AND COLLECTION COSTS, AND REQUIRING PAYMENT
OF DELINQUENT REGULATORY ASSESSMENT FEES AND ANY ACCRUED
STATUTORY LATE PAYMENT CHARGES, OR CANCELLING COMPETITIVE LOCAL
EXCHANGE CARRIER CERTIFICATES FOR VIOLATION OF
RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE

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 (F.A.C.).

Pursuant to Rule 25-4.0161(11)-(12), F.A.C., telecommunications companies that fail to pay the Regulatory Assessment Fee (RAF), along with any accrued statutory late payment charges, within 20 days after receiving a delinquent notice, shall be automatically penalized \$500 for a first offense, \$1,000 for a second offense, and \$2,000 for a third offense.¹ If an entity fails to pay the penalty amount and the RAF in full, along with any accrued statutory late payment charges, that entity's local exchange certificate shall be cancelled.

Pursuant to Section 364.336, Florida Statutes (F.S.), certificate holders must pay a minimum annual RAF if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(3), F.A.C., the appropriate RAF return form and applicable fees are due to this Commission by January 30th of the subsequent year. Pursuant to Section 350.113(4),

¹ The penalty amounts include collection costs.

F.S., the RAF 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.

Our Division of Administrative and Information Technology Services advised that the entities listed below failed to comply with Section 364.336, F.S., and Rule 25-4.0161, F.A.C. These entities have not paid the 2020 RAF, the accrued statutory late payment charges, or the \$1,000 penalty.

| <u>ENTITY'S NAME</u> | <u>CO. CODE</u> | <u>DOCKET NO.</u> |
|---------------------------|-----------------|-------------------|
| Litestream Holdings, LLC | TX823 | 20210071-TX |
| Opextel LLC d/b/a Alodiga | TY021 | 20210081-TX |

Accordingly, we hereby find it appropriate to cancel each entity's respective local exchange certificate for failure to comply with Section 364.336, F.S., and Rule 25-4.0161, F.A.C., unless such entity pays a \$1,000 penalty and remits any past due RAF, along with any accrued statutory late payment charges, to this Commission, prior to our issuing a consummating order for this Proposed Agency Action Order (Order).

We are vested with jurisdiction over these matters pursuant to Sections 350.113, 364.336, and 364.285, F.S.

If this Order is protested by an entity, that entity's respective certificate shall not be cancelled pending the outcome of the protest. If an entity pays the \$1,000 penalty and remits any past due RAF, along with any accrued statutory late payment charges, prior to our issuing an order consummating this Order, then that entity's respective certificate will remain active.

If an entity (1) fails to protest this Order and (2) fails to pay the \$1,000 penalty or fails to remit any past due RAF, along with any accrued statutory late payment charges, prior to our issuing an order consummating this Order, then that entity's certificate shall be cancelled administratively, and the collection of any past due RAF shall be referred to the Florida Department of Financial Services for further collection efforts.

If an entity's certificate is cancelled in accordance with this Order, that entity shall immediately cease and desist providing local exchange service in Florida.

Each entity's docket shall be closed administratively either upon receipt of the payment of the \$1,000 penalty and any past due RAF, along with any accrued statutory late payment charges from each entity, or upon cancellation of that entity's certificate.

If an entity's certificate is cancelled in accordance with this Order and it subsequently decides to reapply as a telecommunications provider, that entity shall be required to first pay the \$1,000 penalty and any past due RAF, along with any accrued statutory late payment charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that, by the end of the protest period listed in this Order, each of the respective entities listed herein shall pay a \$500 penalty and any past due RAF, along with any accrued statutory late payment charges, to the Florida Public Service Commission for failure to comply with Section 364.336, F.S., and Rule 25-4.0161, F.A.C. It is further

ORDERED that the cost of collection will be subtracted from any monies collected as payments (full or partial) of the penalty. These collection costs will be deposited, along with the past due RAF, in the Florida Public Service Commission Regulatory Trust Fund, pursuant to Section 350.113, F.S. The accrued statutory late payment charges and any portion of the penalty exceeding the cost of collection will be remitted to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), F.S. It is further

ORDERED that should an entity fail to comply with this Order, that entity's respective certificate shall be cancelled. It is further

ORDERED that the cancellation of an entity's certificate in no way diminishes the entity's obligation to pay the \$1,000 penalty, the applicable delinquent RAF, and any accrued statutory late payment charges. It is further

ORDERED that if an entity listed in this Order has its respective certificate cancelled, and subsequently decides to reapply for certification as a telecommunications services provider, that entity shall be required to first pay the \$1,000 penalty and any past due RAF, along with any accrued statutory late payment charges. It is further

ORDERED that an entity that fails to pay its outstanding RAF in full, along with any accrued statutory late payment charges, penalties and costs of collection shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

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

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. 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, F.A.C., is received by the Office of

Commission Clerk, 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, each respective docket shall be closed upon receipt of the imposed \$1,000 penalty and any past due RAF, along with any accrued statutory late payment charges, from the respective entity or upon cancellation of that entity's certificate.

By ORDER of the Florida Public Service Commission this 12th day of May, 2021.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

GAP

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 2, 2021.

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.