

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
Alternative Local Exchange  
Telecommunications Certificate  
No. 5165 issued to U.S. Telco,  
Inc. for violation of Rule 25-  
4.0161, F.A.C., Regulatory  
Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 010759-TX  
ORDER NO. PSC-01-2039-PAA-TX  
ISSUED: October 16, 2001

The following Commissioners participated in the disposition of  
this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION  
ORDER CANCELING ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS  
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.

U.S. Telco, Inc. (U.S. Telco) currently holds Certificate of  
Public Convenience and Necessity No. 5165, issued by the Commission  
on June 21, 1997, authorizing the provision of Alternative Local  
Exchange Telecommunications (ALEC) service. U.S. Telco has not  
paid the Regulatory Assessment Fees (RAFs) required by Section  
364.336, Florida Statutes, and Rule 25-4.0161, Florida  
Administrative Code, for the year 2000. Also, accrued statutory  
penalties and interest charges for the year 2000 have not been  
paid.

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FPSC-COMMISSION CLERK

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF 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. All entities that apply for certification receive a copy of our rules governing Alternative Local Exchange Telecommunications (ALEC) service.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms, for the period of January 1 through December 31, are mailed to the entities at least 45 days prior to the date that payment of the fee is due. U.S. Telco was scheduled to remit its RAFs by January 30, 2001.

Although the company requested cancellation of its certificate, Mr. Todd Meislahn, President, advised staff that it did not have the funds to pay the past due RAF. Accordingly, we cannot grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5165 on its own motion, effective April 23, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

U.S. Telco has not complied with Rule 25-24.820(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request. Cancellation of a certificate shall be ordered subject to the holder providing the required information.

(a) A statement of intent and date certain to pay regulatory assessment fee.

(b) A statement of why the certificate is proposed to be cancelled.

(c) A statement as to how customer deposits and final bills will be handled.

(d) Proof of individual customer notice regarding discontinuance of service.

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.820(2), Florida Administrative Code, or we involuntarily cancel the certificate, U.S. Telco is responsible for the RAFs. As of the date of the vote, U.S. Telco continues to be in violation of our rules for nonpayment of RAFs for 2001.

For the reasons described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we deny U.S. Telco's request for voluntary cancellation of Alternative Local Exchange Telecommunications (ALEC) Certificate No. 5165 for failure to comply with the provisions of Rule 25-24.820(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel U.S. Telco's certificate, effective April 23, 2001, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Since U.S. Telco is no longer in business, there would be no purpose in requiring U.S. Telco to pay a fine. By involuntarily canceling U.S. Telco's certificate, however, we would be able to track this company should it apply for another certificate with us in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes U.S. Telco's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. The Commission is vested jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny U.S. Telco, Inc.'s request for voluntary cancellation of Alternative Local Exchange Telecommunications (ALEC) Certificate No. 5165. It is further

ORDERED that pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we hereby cancel U.S. Telco, Inc.'s Alternative Local Exchange Telecommunications (ALEC) Certificate

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No. 5165, effective April 23, 2001, for failure to comply with Rule 25-24.820(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that U.S. Telco, Inc. remains obligated for all due and owing Regulatory Assessment Fees for the years 2000 and 2001, as well as accrued statutory penalties and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. 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.

By ORDER of the Florida Public Service Commission this 16th Day of October, 2001.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

JAE

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 November 6, 2001.

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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.