

R. Kennedy-LMP
✓ CCA

ORIGINAL

CK 76614
\$5,000.00

MC

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of IXC Certificate No. 2497 issued to AmeriVision Communications, Inc. for violation of Order No. PSC-00-0827-PAA-TI.

DOCKET NO. 010591-TI
ORDER NO. PSC-02-0240-AS-TI
ISSUED: February 25, 2002

TI962

The following Commissioners participated in the disposition of this matter:

- LILA A. JABER, Chairman
- J. TERRY DEASON
- BRAULIO L. BAEZ
- MICHAEL A. PALECKI
- RUDOLPH "RUDY" BRADLEY

DEPOSIT
D195

DATE
MAR 26 2002

ORDER APPROVING SETTLEMENT OFFER

BY THE COMMISSION:

BACKGROUND

AmeriVision Communications, Inc. (AmeriVision) obtained its interexchange company (IXC) Certificate No. 2497 from us on February 15, 1991. We denied their request to change the company's name to AmeriVision Communications, Inc. d/b/a Lifeline Communications by Proposed Agency Action Order No. PSC-00-0827-PAA-TI, issued April 26, 2000, in Docket No. 000153-TI. No protests were filed, and the order denying the name change became final on May 19, 2000, by Consummating Order No. PSC-00-0999-CO-TI.

On September 17, 2000, our staff received an inquiry concerning a radio advertisement during which AmeriVision advertised long distance telephone service under the name Lifeline Communications. In response to the inquiry, by certified letter dated October 20, 2000, to Mr. Stephen D. Halliday, our staff notified AmeriVision it was in apparent violation of Commission Order No. PSC-00-0827-PAA-TI because the name Lifeline Communications was being used in Florida. Staff included a copy of an August 20, 2000, billing statement on which Lifeline was prominently displayed above the name AmeriVision Communications, Inc., and also discussed the radio advertisement for Lifeline Communications.

- AUS _____
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- CTR _____
- ECR _____
- GCL _____
- OPC _____
- MMS _____
- SEC
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DOCUMENT NUMBER-DATE

03429 MAR 26 02

FPSC-COMMISSION CLERK

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AmeriVision responded in essentially identical letters on December 1, and December 4, 2000. In its responses, the company claimed it had not been using the corporate name Lifeline Communications in the State of Florida on its bills. Instead, the company included Lifeline, its registered service mark, as well as the certificated name, AmeriVision Communications, Inc. on its billing statements. Regarding the radio advertisement, AmeriVision claimed that some of its radio advertisements in Florida may have been ambiguous, but the company had taken steps to avoid ambiguous advertisements in the future in Florida.

In addition, Mr. Greg Voight, representing AmeriVision, contacted our staff in December of 2000 to ensure that AmeriVision's written response had satisfied our staff's concerns. Because the company's bills reflected Lifeline as a trademark and did identify AmeriVision Communications, Inc. as the service provider, and the company had reportedly taken action to correct the radio advertisements, staff advised Mr. Voight that the company appeared to be taking the necessary steps to ensure compliance with the Commission's order. Our staff also advised Mr. Voight that AmeriVision should fully comply with Order No. PSC-00-0827-PAA-T1 to avoid any future complications.

Our staff later received a copy of an AmeriVision telephone bill dated March 20, 2001, on which only the name Lifeline Communications is used. The name AmeriVision Communications does not appear anyplace on the March 2001 bill. In addition, on April 16, 2001, and subsequent dates, local Tallahassee radio station WCVC 1330 AM broadcast advertisements in which Lifeline Communications solicited customers for long distance service.

DISCUSSION

We are vested with jurisdiction over this matter pursuant to Sections 364.01(4)(c), 364.285, and 364.337, Florida Statutes.

When we denied AmeriVision's request to change its name to AmeriVision Communications, Inc. d/b/a Lifeline Communications, we were concerned that the fictitious name would be unduly confusing with the current Federal LifeLine Assistance Program. In Order No. PSC-00-0827-PAA-T1, issued April 26, 2000, in Docket No. 000153-T1, we found that it would not be in the public interest to approve the requested name change. Id.

When we compared AmeriVision's August 20, 2000, billing statement to its March 20, 2001, bill to the same customer, it was

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evident that the company had stopped using the certificated provider name, AmeriVision Communications, Inc., and was now using only the name Lifeline Communications on its bills. We reviewed the billing format, addresses, customer service number, and other information to determine that AmeriVision Communications, Inc. and Lifeline Communications were the same entity. In addition, the company has continued to advertise under the name Lifeline in Florida.

On November 2, 2001, we received AmeriVision's proposed offer of settlement to resolve the issues in this docket. AmeriVision offered, without admitting willful intent, to pay \$5,000 to settle all violations, and, outside an enforcement proceeding, file a petition to amend its certificate to add the d/b/a LifeLine Communications. Appearing before us at Agenda Conference, counsel for AmeriVision has represented that it would like to take the necessary steps to legally use its trade name in Florida, and would file a petition for name change by the end of the following week. Based upon that representation, we find this to be a fair and just resolution to the issues presented in this Docket.

FINDING

We hereby accept the provisions of the Settlement Agreement, wherein AmeriVision will pay a settlement of \$5,000 into the General Revenue Fund to settle all issues in this Docket. The contribution shall be received by this Commission no later than thirty days from the issuance of this Order, and shall identify the docket number and company name. This Commission shall forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that AmeriVision Communications, Inc.'s Settlement Offer as set forth in the body of this Order is hereby approved. It is further

ORDERED that the \$5,000 contribution shall be received by this Commission no later than thirty days from the issuance of this Order, and shall identify the docket number and company name. This Commission shall forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

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ORDERED that AmeriVision Communications, Inc. file a petition for name change with this Commission no later than March 1, 2002. It is further

ORDERED that this docket be closed administratively upon receipt of the \$5,000 contribution and the petition for name change.

By ORDER of the Florida Public Service Commission this 25th Day of February, 2002.

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

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

This is a facsimile copy. Go to the Commission's Web site, <http://www.floridapsc.com> or fax a request to 1-850-413-7118, for a copy of the order with signature.

(S E A L)

CLF

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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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

STATE OF FLORIDA



PUBLIC SERVICE COMMISSION

2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

TO: T1962 AmeriVision Communications, Inc.
Fax #: 6,14056003823

FROM: Records Fax Server

RE:

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