

MEMORANDUM

October 21, 1998

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RECORDS AND REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (MCKINNEY) *JCM/slh*

RE: DOCKET NO. 981106-TX - Application for certificate to provide alternative local exchange telecommunications service by Daytona Telephone Company.

FSC 98-1405-FDF-TX

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING CERTIFICATE TO PROVIDE ALTERNATIVE LOCAL EXCHANGE to be issued in the above-referenced docket. (Number of pages in order - 4)

JCM/slh
Attachment
cc: Division of Communications
I:981106or.jcm

See 1

*10 fax
1 mail*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for
certificate to provide
alternative local exchange
telecommunications service by
Daytona Telephone Company.

DOCKET NO. 981106-TX
ORDER NO. PSC-98-1405-FOF-TX
ISSUED: October 21, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CERTIFICATE TO
PROVIDE ALTERNATIVE LOCAL EXCHANGE
TELECOMMUNICATIONS SERVICE

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.

Daytona Telephone Company has applied for a certificate to provide alternative local exchange telecommunications service, pursuant to Section 364.337, Florida Statutes. Upon review of its application, it appears that Daytona Telephone Company has sufficient technical, financial, and managerial capability to provide such service. Accordingly, we hereby grant to Daytona Telephone Company Certificate No. 5736 which shall authorize it to provide alternative local exchange telecommunications services throughout the State of Florida, except for the territories of earnings-regulated small local exchange companies, as set forth in Section 364.337(1), Florida Statutes.

DOCUMENT IDENTIFICATION

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If this Order becomes final and effective, it shall serve as Daytona Telephone Company's certificate. It should, therefore, be retained by Daytona Telephone Company as proof of certification.

Alternative Local Exchange Telecommunications providers (ALECs) are subject to Chapter 25-24, Florida Administrative Code, Part XV, Rules Governing Telecommunications Service Provided by Alternative Local Exchange Companies. ALECs are also required to comply with all applicable provisions of Chapter 364, Florida Statutes, and Chapters 25-4, Florida Administrative Code.

In addition, Section 364.337(2), Florida Statutes, requires ALECs which provide basic local telecommunications service to provide access to 911 services. This Commission has no rules specifying the 911 services that either an incumbent local exchange company (ILEC) or an ALEC must provide; however, 911 service that is inferior to that provided by the ILEC would clearly not be in the public interest. Accordingly, we find that Section 364.337(2), Florida Statutes, requires ALECs which provide basic local telecommunications services to provide at least the same level of 911 services as that provided by the ILEC serving the same area.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby grant to Daytona Telephone Company Alternative Local Exchange Telecommunications Certificate No. 5736 subject to the terms and conditions set forth in the body of this Order. It is further

ORDERED that this Order shall serve as Daytona Telephone Company's certificate and should be retained by Daytona Telephone Company as proof of certification. It is further

ORDERED that each Alternative Local Exchange Telecommunications company which provides basic local telecommunications services shall provide at least the same level of 911 services as that provided by the incumbent local exchange company serving the same area. It is further


ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee,

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Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" 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 21st day of October, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JCM

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.

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,

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in the form provided by Rule 2R-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 11, 1998.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.