

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 3977 issued to MultiMedia Telephone Service, Inc. for violation of Rules 25-4.043, F.A.C., Response to Commission Staff Inquiries, and 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 981249-TI
ORDER NO. PSC-98-1655-FOF-TI
ISSUED: December 9, 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 IMPOSING FINES AND
REQUIRING PAYMENT OF REGULATORY ASSESSMENT FEES OR CANCELING
INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE

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.

MultiMedia Telephone Service, Inc. (MultiMedia) is the holder of Interexchange Telecommunications Certificate of Public Convenience and Necessity No. 3977, issued on April 18, 1995. After researching MultiMedia's account and status with the Commission, it was determined that MultiMedia had failed to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code; and Rule 25-4.043, Florida Administrative Code.

DOCUMENT NUMBER-DATE

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PSC RECORDS REPORTING

Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees

After researching MultiMedia's account, our staff determined that MultiMedia has failed to submit the Regulatory Assessment Fees, along with statutory penalties and interest charges for the years 1996 and 1997.

Under Section 364.336, Florida Statutes, certificate holders 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. All entities that apply for certification receive a copy of our rules governing pay telephone service and an affidavit in which the applicants attest that the rules have been received and understood by the applicant. This affidavit must be attached to the application in order for the application to be processed.

The Regulatory Assessment Fee forms are mailed to the entities in December of every year, for the period of January 1, through December 31. MultiMedia has been given adequate opportunity to pay. To date, MultiMedia has not paid the required fees. Thus, it appears that MultiMedia has violated Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries

Rule 25-4.043 requires companies to respond to inquiries from Commission staff within 15 days. MultiMedia has failed to respond to a certified letter, a faxed letter, and a telephone call from our staff. The certified letter was returned to the Commission as "Moved, Left No Forwarding Address", and both the voice number and the fax number for the company on file in the Master Commission Directory are disconnected telephone numbers. Thus, it appears that MultiMedia has violated Rule 25-4.043, Florida Administrative Code.

Conclusion

For the reasons described above, pursuant to Rule 25-24.514(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel MultiMedia's certificate, effective

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December 31, 1997, for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless MultiMedia pays a \$500 fine and remits all past due regulatory assessment fees for the years 1996 and 1997, along with statutory penalties and interest charges, to the Florida Public Service Commission. Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company fails to comply with Commission rules. Accordingly, we also find it appropriate to assess a \$10,000 fine to MultiMedia for failure to comply with Rule 25-4.043, Florida Administrative Code.

MultiMedia must comply with these requirements within five business days from the date this Order becomes final. The fines will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

When the appropriate fees, statutory penalties, interest charges, and fines are received, this docket shall be closed. Should MultiMedia fail to comply with this Order within five business days from the date this Order becomes final, MultiMedia shall have its certificate canceled and the \$10,000 fine shall be forwarded to the Office of the Comptroller for collection; and the docket shall be closed. The cancellation of the certificate and the closing of the docket in no way diminishes MultiMedia's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that MultiMedia Telephone Service, Inc. must pay the past due regulatory assessment fees, statutory penalties, interest charges, and a \$500 fine to the Florida Public Service Commission, or have its certificate canceled, effective December 31, 1997, for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes MultiMedia Telephone Service, Inc.'s obligation to pay applicable delinquent regulatory

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assessment fees, statutory penalties, and interest charges. It is further

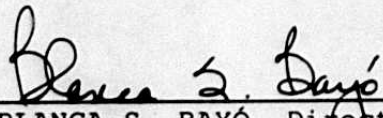
ORDERED that MultiMedia Telephone Service, Inc. must pay a \$10,000 fine to the Florida Public Service Commission for failure to comply with Rule 25-4.043, Florida Administrative Code, within five business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should MultiMedia Telephone Service, Inc. fail to comply with this Order, MultiMedia Telephone Service, Inc.'s certificate shall be canceled, the \$10,000 fine shall be assessed, and the docket shall be closed. The fine shall be forwarded to the Office of the Comptroller for collection. 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, 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 upon payment of the fines, and fees, or upon cancellation of the certificate and assessment of the \$10,000 fine.

By ORDER of the Florida Public Service Commission this 9th day of December, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

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, in the form provided by Rule 28-106.201, 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 December 30, 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.