

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 5236 issued to New Concept Communications, LLC. 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. 990306-TI
ORDER NO. PSC-99-0934-PAA-TI
ISSUED: May 11, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
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.

New Concept Communications, LLC. (New Concept) currently holds Certificate of Public Convenience and Necessity No. 5236, issued by the Commission on October 7, 1997, authorizing the provision of interexchange telecommunications service. The Division of Communications received a request from the Division of Consumer

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FPSC-RECORDS/REPORTING

Affairs to research a complaint registered against New Concept for failure to respond to Commission inquiries. After researching New Concept's account and status with the Commission, it was determined that New Concept 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.

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

New Concept has not paid the regulatory assessment fees (RAF) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the years 1997 and 1998. Also, accrued statutory penalties and interest charges for the years 1997 and 1998 have not been paid.

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 interexchange telecommunications service. All applicants must attest that these rules have been received and understood by the applicant and an affidavit must be attached to the application in order for the application to be processed.

Pursuant to Section 350.113(4), Florida Statutes, the regulatory assessment fee 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. New Concept has been given adequate opportunity to pay. To date, New Concept has not paid the required fees. Thus, it appears that New Concept 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. New Concept has failed to respond to written inquiries, relating a complaint registered with the Division of Consumer Affairs. The Division of Consumer Affairs

provided the Division of Communications with a copy of the certified letter that had been sent to New Concept. The receipt showed that the certified letter had been signed for and received by New Concepts. However, New Concept did not respond to the Division of Consumer Affairs. Our staff sought to contact New Concept by telephone. All attempts were unsuccessful. The number in our data bank for New Concepts was still in service, but had a recorded message indicating that the "...company was put into receivership [status] by the Federal Trade Commission on November 20, 1998." Our staff attempted the fax number listed in our data bank, but that number had been disconnected. To date, New Concept has not responded. Thus, it appears that New Concept has violated Rule 25-4.043, Florida Administrative Code.

Conclusion

For the reason described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel New Concept's certificate, unless New Concept pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, and remits all past due regulatory assessment fees, along with statutory penalties and interest charges, to the Florida Public Service Commission. We also find it appropriate to cancel New Concept's certificate, unless New Concept pays a \$10,000 fine to New Concept for failure to comply with Rule 25-4.043, Florida Administrative Code.

New Concept must comply with these requirements within five business days from the date this Order becomes final. The fine 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 New Concept fail to comply with this Order within five business days from the date this Order becomes final, New Concept shall have its certificate canceled and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes New Concept'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 New Concept Communications, LLC. must pay the past due regulatory assessment fees, statutory penalties, interest charges, and a \$500 fine to the Florida Public Service Commission 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 New Concept Communications, LLC. 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 New Concept Communications, LLC. fail to comply with this Order, New Concept Communications, LLC.'s certificate shall be canceled and the Docket shall be closed. It is further

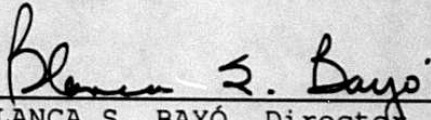
ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes New Concept Communications, LLC.'s obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges for 1997 and 1998. It is further

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.

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By ORDER of the Florida Public Service Commission this 11th
day of May, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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.

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 June 1, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a consummating order.

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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.