

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 4375 issued to
Five Star Telecom, Inc., for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 990766-TI
ORDER NO. PSC-99-1793-PAA-TI
ISSUED: September 14, 1999

The following Commissioners participated in the disposition of
this matter:

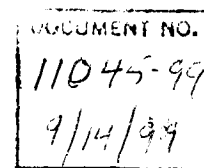
JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING INTEREXCHANGE 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.

Five Star Telecom, Inc. (Five Star Telecom) currently holds
Certificate of Public Convenience and Necessity No. 4375, issued by
the Commission on March 20, 1996, authorizing the provision of
Interexchange Telecommunications service. Five Star Telecom 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 1998. Also, accrued statutory
penalties and interest charges for the year 1998 have not been
paid.



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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 RAFs 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 fees is due. Five Star Telecom has been given adequate opportunity to pay. The Commission's correspondence regarding the delinquent RAFs was mailed to Five Star Telecom on March 12, 1999.

By letter dated May 28, 1999, Five Star Telecom stated that it had never provided services in Florida and it had been unable to submit the required RAFs due to a lack of staffing and funding. Five Star Telecom further requested the cancellation of its certificate. Subsequently, on July 12, 1999, our staff mailed a letter to Five Star Telecom explaining that until it paid the outstanding RAFs and accrued statutory penalties and interest charges for the year 1998, our staff could not recommend approval of a voluntary cancellation of the certificate. As of the date of this vote, the Division of Administration's records do not show a payment of the past due amount.

Five Star Telecom has not complied with Rule 25-24.474(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:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

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

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(c) A statement on treatment of customer deposits and final bills.

(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 25-24.474(2), Florida Administrative Code, or we involuntarily cancel the certificate, Five Star Telecom is responsible for the RAFs.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we deny Five Star Telecom's request for voluntary cancellation of Interexchange Telecommunications Certificate No. 4375 for failure to comply with the provisions of 25-24.474(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161 (2), Florida Administrative Code. However, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we find it appropriate to involuntarily cancel Five Star Telecom's certificate for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Since Five Star Telecom has never provided service in Florida, there would be no purpose in requiring Five Star Telecom to pay a fine. By involuntarily canceling Five Star Telecom'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 Five Star Telecom's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges for 1998.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Five Star Telecom, Inc.'s request for voluntary cancellation of Interexchange Telecommunications Certificate No. 4375. It is further

ORDERED that pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we hereby cancel Five Star Telecom, Inc.'s Interexchange Telecommunications Certificate No. 4375 for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that Five Star Telecom, Inc. remains obligated for all due and owing regulatory assessment fees for the year 1998, as well

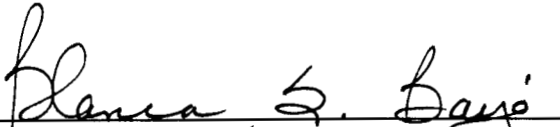
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as accrued statutory penalties and interest charges for 1998. It is further

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 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.

By ORDER of the Florida Public Service Commission, this 14th day of September, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

KMP

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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 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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 5, 1999.

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.

M E M O R A N D U M

September 13, 1999

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SEP 14 AM 10:41

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (PEÑA) *kmp* *CB*

RE: DOCKET NO. 990766-TC - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4375 ISSUED TO FIVE STAR TELECOM, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

1793-PAA

Attached is an ORDER CANCELING INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE INVOLUNTARILY to be issued in the above-referenced docket. (Number of pages in order - 5)

KMP/sa
Attachment
cc: Division of Communications
I:990766ix.kmp

fixed 11/0
mailed -