

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
ALEC Certificate No. 4727 issued  
to Cypress Telecommunications  
Corporation for violation of  
Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 981949-TX  
ORDER NO. PSC-99-1892-FOF-TX  
ISSUED: September 23, 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.

ORDER CANCELING ALTERNATIVE LOCAL EXCHANGE  
TELECOMMUNICATIONS CERTIFICATE

BY THE COMMISSION:

Cypress Telecommunications Corporation (Cypress) currently holds Certificate of Public Convenience and Necessity No. 4727, issued by this Commission on December 11, 1996, authorizing the provision of Alternative Local Exchange Telecommunications (ALEC) service. Cypress did not pay the Regulatory Assessment Fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1997. Also, accrued statutory penalties and interest charges for the years 1996 and 1997 were not 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

DOCUMENT NUMBER-DATE

11491 SEP 23 99

FPSC-RECORDS/REPORTING

ORDER NO. PSC-99-1892-FOF-TX  
DOCKET NO. 981949-TX  
PAGE 2

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 Alternative Local Exchange 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. Cypress has been given adequate opportunity to pay. The Commission's correspondence regarding the RAFs was signed by and delivered to Cypress on December 15, 1997.

At the March 16, 1999, Agenda Conference, we approved our staff's recommendation to fine Cypress \$500 for nonpayment of the RAFs. On March 17, 1999, our staff received a letter from Cypress's General Counsel, Mr. David Wintersgill, requesting the voluntary cancellation of Cypress's certificate.

On April 6, 1999, Order No. PSC-99-0678-FOF-TX was issued, imposing a \$500 fine. Cypress had until April 27, 1999, to protest the Order and until May 4, 1999, to pay the fine and past due RAFs, along with accrued statutory penalties and interest charges. Cypress' March 17, 1999, correspondence was utilized as protest to the Order because it satisfied the necessary requirements set forth in the Notice of Further Proceedings or Judicial Review section of Order No. PSC-99-0678-FOF-TX.

Our staff brought this matter back to this Commission to address whether a voluntary cancellation should be granted. On June 9, 1999, Order No. PSC-99-1191-PAA-TX was issued to cancel Cypress' certificate on our own motion. Cypress had until June 30, 1999 to respond. On June 17, 1999, Cypress responded and advised that since it had never conducted business in the state, it did not believe that RAFs were due. Thereafter, our staff wrote Cypress a letter, dated July 9, 1999, and explained that minimum RAFs were due even if Cypress did not conduct business. Our staff further

ORDER NO. PSC-99-1892-FOF-TX  
DOCKET NO. 981949-TX  
PAGE 3

informed Cypress of the correct amount to pay before a voluntary cancellation could be recommended. On July 30, 1999, Cypress paid the outstanding amount in full and requested voluntary cancellation of its certificate.

Accordingly, we find it appropriate to cancel ALEC Certificate No. 4727, effective July 30, 1999. Cypress shall return its certificate to this Commission. In addition, under 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. A RAFs Return notice for 1999 will be mailed to Cypress. Neither the cancellation of its certificate nor the failure to receive a RAFs Return notice for the year 1999 shall relieve Cypress from its obligation to pay RAFs for 1999.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Cypress Telecommunications Corporation's Certificate No. 4727 to provide Alternative Local Exchange Telecommunications services is hereby canceled, effective July 30, 1999. It is further

ORDERED that Cypress Telecommunications Corporation shall return its certificate to this Commission and remit Regulatory Assessment Fees for the year 1999. It is further

ORDERED that this Docket is closed.

By ORDER of the Florida Public Service Commission this 23rd day of September, 1999.

  
\_\_\_\_\_  
BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

KMP

ORDER NO. PSC-99-1892-FOF-TX  
DOCKET NO. 981949-TX  
PAGE 4

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 Records and Reporting, 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 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 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.