

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
Alternative Local Exchange  
Telecommunications Certificate  
No. 5297 issued to Jerry La  
Quiere d/b/a LEC-Link for  
violation of Rule 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies.

DOCKET NO. 991523-TX  
ORDER NO. PSC-00-0379-PAA-TX  
ISSUED: February 22, 2000

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER CANCELING ALTERNATIVE LOCAL EXCHANGE  
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.

Jerry LaQuiere d/b/a LEC-Link (LEC-Link) currently holds Certificate of Public Convenience and Necessity No. 5297, issued by the Commission on January 1, 1998, authorizing the provision of Alternative Local Exchange Telecommunications service. LEC-Link 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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FPSC-RECORDS/REPORTING

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAFs 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 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. 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. However, pursuant to Section 350.113(4), Florida Statutes, the Commission shall provide at least a 45 days notice of the date the payment is due prior to the due date. LEC-Link was scheduled to remit its RAFs by February 1, 1999.

On October 7, 1999, we received a letter from LEC-Link requesting the cancellation of the certificate. Our staff wrote to LEC-Link to advise that they could not recommend approval of a voluntary cancellation when the RAFs are past due. As of the date of this vote, LEC-Link has not paid the past due balance.

LEC-Link has not complied with Rule 25-24.820(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. Cancellation of a certificate shall be ordered subject to the holder providing the required information.

(a) A statement of intent and date certain to pay regulatory assessment fee.

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

(c) A statement as to how customer deposits and final bills will be handled.

(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 25-24.820(2), Florida Administrative Code, or we involuntarily cancel the certificate, LEC-Link is responsible for the RAFS. As of the date of this vote, LEC-Link continues to be in violation of our rules for non-payment of RAFS for the year 1999.

For the reasons described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we deny LEC-Link's request for voluntary cancellation of Alternative Local Exchange Telecommunications Certificate No. 5297 for failure to comply with the provisions of 25-24.820(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel LEC-Link's certificate, effective the date of issuance of the Consummating Order, for failure to pay RAFS pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Since LEC-Link is no longer in business, there would be no purpose in requiring LEC-Link to pay a fine. By involuntarily canceling LEC-Link'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 LEC-Link's obligation to pay applicable delinquent RAFS, statutory penalties, and interest charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Jerry LaQuiere d/b/a LEC-Link's request for voluntary cancellation of Alternative Local Exchange Telecommunications Certificate No. 5297. It is further

ORDERED that pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we hereby cancel Jerry LaQuiere d/b/a LEC-Link's Alternative Local Exchange Telecommunications Certificate No. 5297, effective the date of issuance of the Consummating Order, for failure to comply with Rule 25-24.820(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

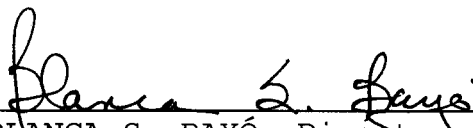
ORDER NO. PSC-00-0379-PAA-TX  
DOCKET NO. 991523-TX  
PAGE 4

ORDERED that Jerry LaQuiere d/b/a LEC-Link remains obligated for all due and owing Regulatory Assessment Fees, as well as accrued statutory penalties and interest charges. 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 22nd day of February, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

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ORDER NO. PSC-00-0379-PAA-TX  
DOCKET NO. 991523-TX  
PAGE 5

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 March 14, 2000.

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.