

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against J and L Communications for violation of Rules 25-4.043, F.A.C., Response to Commission Staff Inquiries, and 25-24.515(9)(a), (12), and (18), F.A.C., Pay Telephone Service.

DOCKET NO. 991471-TC

In re: Request for cancellation of Pay Telephone Certificate No. 3353 held by J and L Communications, and application for certificate to provide pay telephone service by Alacrity Communications, Inc.

DOCKET NO. 000004-TC
ORDER NO. PSC-00-1361-PAA-TC
ISSUED: July 28, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

ORDER APPROVING SETTLEMENT AGREEMENT, AND NOTICE OF PROPOSED AGENCY ACTION GRANTING VOLUNTARY CANCELLATION OF PATS CERTIFICATE AND APPLICATION FOR NEW PATS CERTIFICATE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action, discussed herein, on Docket 000004-TC 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.

On June 11, 1993, J and L Communications was granted PATS Certificate No. 3353. On December 3, 1999, the company was ordered

DOCUMENT NUMBER-DATE

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to show cause why it should not be fined \$3,000 for violations of pay telephone service rules and \$10,000 for not responding to staff inquiries about the alleged violations. See Order No. PSC-99-2343-SC-TC in Docket 991471-TC. The alleged service violations were: 1) failure to identify the proper name of the certificate holder on the pay phone; 2) failure to route 0- calls to a LEC or ALEC; and, 3) failure to comply with standards for wheelchair accessibility. On December 30, 1999, the Commission received a response to the Show Cause Order from the company.

As a result of the show cause action, on January 3, 2000, the company requested voluntary cancellation of Certificate No. 3353 and applied for a new pay telephone certificate in the name of Alacrity Communications, Inc. The cancellation and certificate application were assigned Docket No. 000004-TC. Our staff could not process these requests because the rule violations from Docket No. 991471-TC had not been entirely resolved and because the company had not registered the name of Alacrity Communications, Inc. with the Florida Department of State.

Between February 2000 and March 2000, the company provided information requested by our staff on both of these dockets. On May 5, 2000, the company submitted a settlement proposal to resolve the show cause order. By the end of June 2000, the company had corrected all of its service violations.

With respect to Docket No. 991471-TC, the company offered to settle the Show Cause Order by paying \$2,800.00 in six installments. The first installment of \$466.67 would be received by this Commission within ten business days from the date of this Commission Order. The next four installments of \$466.67 each and the last installment of \$466.65 would be received by this Commission by the last working day of each month following receipt of the first installment. Also, the company agreed to respond to all Commission inquiries within the required 15 days.

With respect to Docket No. 000004-TC, the company provided proof that Alacrity Communications, Inc., the name the company wants to use, is registered as a corporation with the Florida Department of State.

Upon consideration of the above, we accept the settlement offer, find that PATS Certificate No. 3353 shall be canceled and the application for PATS Certificate No. 7518 in the name of Alacrity Communications, Inc. shall be granted. The company shall

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retain the name J and L Communications until the protest period for the issuance of the new certificate expires and a consummating order is issued. Certificate No. 3353 shall be canceled on the effective date of Certificate No. 7518 to avoid interruption of service. Certificate No. 7518 shall become effective when an order consummating this Order is issued. If the settlement payments are not paid as described above, then the certificate effective at the time of the default shall be canceled administratively.

In addition, both J and L Communications and Alacrity Communications, Inc. shall be mailed a Regulatory Assessment Fee return for the year 2000. Neither the cancellation of J and L Communications' certificate nor the failure to receive the Regulatory Assessment Fee notice for the year 2000 shall relieve either company from its obligation to pay the fees for the year 2000.

Docket No. 991471-TC shall be closed upon receipt of the final installment of the \$2,800 contribution or cancellation of the certificate(s) for failure to pay installment(s) as they become due. Docket No. 000004-TC shall be closed when a consummating order is issued, unless a person whose substantial interests are affected by the our decision to cancel Certificate No. 3353 and issue Certificate No. 7518 files a protest within 21 days of the issuance of this Order.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement offered by J & L Communications and Alacrity Communications, Inc. is accepted. Each installment payment shall identify the docket number, 991471-TC, and company name. It is further

ORDERED that if the payments are not made as described herein, then the certificate effective at the time of non-compliance shall be canceled. The Commission will forward the payments to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that Certificate No. 3353, issued to J and L Communications, shall be canceled, and Certificate No. 7518 shall be issued in the name of Alacrity Communications, Inc. The

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cancellation and issuance will become effective upon issuance of a consummating order. It is further

ORDERED that Docket NO. 991471-TC shall be closed upon receipt of the final installment of the \$2,800 payment or upon cancellation of the certificate(s) for failure to pay installment(s) as they become due. It is further

ORDERED that the provisions of this Order pertaining to Docket 000004-TC, voluntary cancellation of Certificate No. 3353 and issuance of Certificate No. 7518, are issued as proposed agency action and 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" attached hereto. It is further

ORDERED that in the event the proposed agency action becomes final, Docket No. 000004-TC shall be closed.

By ORDER of the Florida Public Service Commission this 28th day of July, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

MKS

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.

As identified in the body of this order, our action in Docket No. 000004-TC, granting voluntary cancellation of Certificate No. 3353 and issuing Certificate No. 7518 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, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 18, 2000. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final 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.

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 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 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.