

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of IXC Certificate No. 5273 issued to Fibernet, Inc. d/b/a Fibernet Telemanagement, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 001267-TI
ORDER NO. PSC-00-2397-PAA-TI
ISSUED: December 14, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE 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.

Fibernet, Inc. d/b/a Fibernet Telemanagement, Inc. (Fibernet) currently holds Certificate of Public Convenience and Necessity No. 5273, issued by the Commission on November 22, 1997, authorizing the provision of Interexchange Telecommunications service (IXC). The Division of Administration advised our staff by memorandum that Fibernet had not paid the Regulatory Assessment Fees (RAFs) required by Section 364.336, Florida Statutes, and Rule

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25-4.0161, Florida Administrative Code, for the year 1999. Also, accrued statutory penalties and interest charges for late RAFs payments for the year 1999 had 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 IXC 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 the entities at least 45 days prior to the date that payment of the fee is due. Fibernet has been given adequate opportunity to pay. As of the date of this vote, Fibernet has not paid the required fees. This is the second docket opened against Fibernet for nonpayment of the RAF. On April 21, 1999, Order No. PSC-99-0812-AS-TI was issued in Docket No. 981900-TI, which accepted the company's settlement proposal. The company paid the past due fees and the \$100 settlement, and the docket was closed.

For the reason described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Fibernet's certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Fibernet pays a \$1000 fine and remits all past due RAFs, along with statutory penalties and interest charges, to the Florida Public Service Commission. Fibernet must comply with these requirements within five business days after the issuance of the Consummating Order. 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 fine are received, this Docket shall be closed. Should Fibernet fail to comply with this Order within five business days after the issuance of the Consummating Order, Fibernet shall

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have its certificate canceled administratively, and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes Fibernet's obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Fibernet, Inc. d/b/a Fibernet Telemanagement, Inc. must pay the past due Regulatory Assessment Fees, statutory penalties, interest charges, and a \$1000 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 after the issuance of the Consummating Order. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should Fibernet, Inc. d/b/a Fibernet Telemanagement, Inc. fail to comply with this Order, Fibernet, Inc. d/b/a Fibernet Telemanagement, Inc.'s Certificate No. 5273 shall be canceled, effective on the date of issuance of the Consummating Order, and the Docket shall be closed. It is further

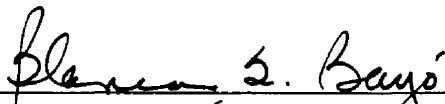
ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes Fibernet, Inc. d/b/a Fibernet Telemanagement, Inc.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. It is further

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" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed upon payment of the fine, and fees, or upon cancellation of the certificate.

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By ORDER of the Florida Public Service Commission this 14th
day of December, 2000.



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 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 January 4, 2001.

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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.