

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Alternative Local Exchange
Telecommunications Certificate
No. 5269 issued to Pinnacle
Telcom, Inc. for violation of
Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 001413-TX
ORDER NO. PSC-01-0557-PAA-TX
ISSUED: March 12, 2001

The following Commissioners participated in the disposition of
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE AND REQUIRING PAYMENT OF DELINQUENT
REGULATORY ASSESSMENT FEES, OR CANCELING ALTERNATIVE LOCAL
EXCHANGE 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.

Pinnacle Telcom, Inc. (Pinnacle Telcom) currently holds
Certificate of Public Convenience and Necessity No. 5269, issued by
the Commission on November 24, 1997, authorizing the provision of
Alternative Local Exchange Telecommunications services (ALEC). The
Division of Administration advised our staff by memorandum that
Pinnacle Telcom had not paid the Regulatory Assessment Fees (RAFs)
required by Section 364.336, Florida Statutes, and Rule 25-4.0161,
Florida Administrative Code, for the years 1999 and 2000. Also,

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accrued statutory penalties and interest charges for late RAFs payments for the years 1999 and 2000 had not been paid.

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 ALEC service.

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 fee is due. Pinnacle Telcom has been given adequate opportunity to pay. As of the date of the vote, Pinnacle Telcom has not paid the required fees.

This is the second docket opened against Pinnacle Telcom for nonpayment of the RAFs. On May 10, 1999, Order No. PSC-99-0919-AS-TX was issued in Docket No. 981963-TX, which accepted the company's \$100 settlement proposal. We received Pinnacle Telcom's payment of the past due fees in full, plus the \$100 settlement, and the docket was closed.

For the reason described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Pinnacle Telcom's certificate for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Pinnacle Telcom pays a \$1,000 fine and remits all past due RAFs, along with accrued statutory penalties and interest charges, to the Florida Public Service Commission. Pinnacle Telcom must comply with these requirements within five business days after the date of issuance of the Consummating Order. The payment should be identified with the docket number and the Pinnacle Telcom, Inc. The fine will be remitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285 (1), Florida Statutes.

When the appropriate fees, statutory penalties, interest charges, and fine are received, this Docket shall be closed.

Should Pinnacle Telcom fail to comply with this Order within five business days after the date of issuance of the Consummating Order, Pinnacle Telcom shall have its certificate canceled, effective on the date of issuance of the Consummating Order, the collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts, and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes Pinnacle Telcom's obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges. The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.337, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Pinnacle Telcom, Inc. must pay the past due Regulatory Assessment Fees, statutory penalties, interest charges, and a \$1,000 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 date of issuance of the Consummating Order. The fine will be transmitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that pursuant to Rule 25-24.820(1)(b), Florida Administrative Code, should Pinnacle Telcom, Inc. fail to comply with this Order, Pinnacle Telcom, Inc.'s Certificate No. 5269 shall be canceled, effective on the date of issuance of the Consummating Order, the collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts, 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 Pinnacle Telcom, Inc.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. It is further

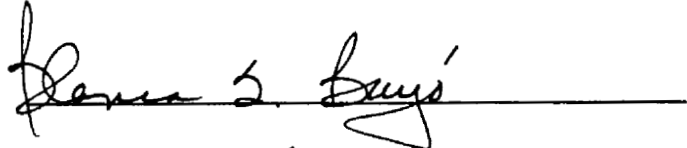
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form

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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.

By ORDER of the Florida Public Service Commission this 12th day of March, 2001.



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.

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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 April 2, 2001.

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.