

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of IXC
Certificate No. 2497 issued to
AmeriVision Communications, Inc.
for violation of Order No. PSC-
00-0827-PAA-TI.

DOCKET NO. 010591-TI
ORDER NO. PSC-01-1170-PAA-TI
ISSUED: May 23, 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 CANCELLING 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.

BACKGROUND

AmeriVision Communications, Inc. (AmeriVision or company) obtained its interexchange company (IXC) Certificate No. 2497 from us on February 15, 1991. We denied their request to change the company's name to AmeriVision Communications, Inc. d/b/a Lifeline Communications by Proposed Agency Action Order No. PSC-00-0827-PAA-TI, issued April 26, 2000, in Docket No. 000153-TI. Since no protests were filed, our order denying the name change became final on May 19, 2000, by Consummating Order No. PSC-00-0999-CO-TI.

On September 17, 2000, our staff received an inquiry concerning a radio advertisement during which AmeriVision

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FPSC-RECORDS, REPORTING

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advertised long distance telephone service under the name Lifeline Communications. In response to the inquiry, by certified letter dated October 20, 2000, to Mr. Stephen D. Halliday, our staff notified AmeriVision it was in apparent violation of Commission Order No. PSC-00-0827-PAA-TI because the name Lifeline Communications was being used in Florida. Staff included a copy of an August 20, 2000, billing statement on which Lifeline was prominently displayed above the name AmeriVision Communications, Inc., and also discussed the radio advertisement for Lifeline Communications.

AmeriVision responded in essentially identical letters on December 1, and December 4, 2000. In its responses, the company claimed it had not been using the corporate name Lifeline Communications in the State of Florida on its bills. Instead, the company included Lifeline, its registered service mark, as well as the certificated name, AmeriVision Communications, Inc. on its billing statements. Regarding the radio advertisement, AmeriVision claimed that some of its radio advertisements in Florida may have been ambiguous, but the company had taken steps to avoid ambiguous advertisements in the future in Florida.

In addition, Mr. Greg Voight, representing AmeriVision, contacted staff in December of 2000 to ensure that AmeriVision's written response had satisfied our staff's concerns. Because the company's bills reflected Lifeline as a trademark and did identify AmeriVision Communications, Inc. as the service provider, and the company had reportedly taken action to correct the radio advertisements, staff advised Mr. Voight that the company appeared to be taking the necessary steps to ensure compliance with the Commission's order. Our staff also advised Mr. Voight that AmeriVision should fully comply with Order No. PSC-00-0827-PAA-TI to avoid any future complications.

Our staff later received a copy of an AmeriVision telephone bill dated March 20, 2001, on which the name Lifeline Communications only is used. The name AmeriVision Communications does not appear anywhere on the March 2001 bill. In addition, on April 16, 2001, and subsequent dates, local Tallahassee radio station WVCV 1330 AM broadcast advertisements in which Lifeline Communications solicited customers for long distance service.

DISCUSSION

We are vested with jurisdiction over this matter pursuant to Sections 364.01(4)(c), 364.285, and 364.337, Florida Statutes.

When we denied AmeriVision's request to change its name to AmeriVision Communications, Inc. d/b/a Lifeline Communications, we were concerned that the fictitious name would be unduly confusing with the current Federal LifeLine Assistance Program. Order No. PSC-00-0827-PAA-TI, issued April 26, 2000, in Docket No. 000153-TI. We found that it would not be in the public interest to approve the requested name change. Id.

When we compared AmeriVision's August 20, 2000, billing statement to its March 20, 2001, bill to the same customer, it was evident that the company had stopped using the certificated provider name, AmeriVision Communications, Inc., and was now using only the name Lifeline Communications on its bills. We reviewed the billing format, addresses, customer service number, and other information to determine that AmeriVision Communications, Inc. and Lifeline Communications were the same entity. In addition, the company has continued to advertise under the name Lifeline in Florida.

Pursuant to Rule 25-24.474, Florida Administrative Code, we may cancel a company's certificate on our own motion for violation of a Commission rule or order. We find that AmeriVision Communications, Inc. has demonstrated a total disregard of our Order No. PSC-00-0827-PAA-TI. We therefore find that the ultimate penalty should be imposed, that is, the company's certificate should be revoked. Accordingly, we order AmeriVision Communications, Inc.'s Interexchange Telecommunications Certificate No. 2497 cancelled for violation of Order No. PSC-00-0827-PAA-TI.

Based on the foregoing, it is

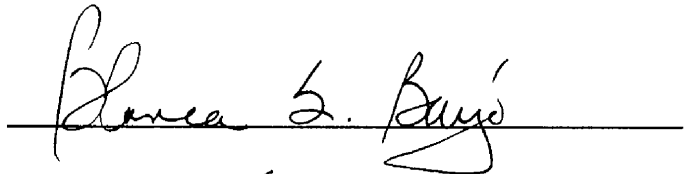
ORDERED by the Florida Public Service Commission that AmeriVision Communications, Inc.'s Interexchange Telecommunications Certificate No. 2497 shall be cancelled for violation of Order No. PSC-00-0827-PAA-TI. It is further

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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.

By ORDER of the Florida Public Service Commission this 23rd day of May, 2001.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a solid horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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.

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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 June 13, 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.