

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Alternative Local Exchange
Telecommunications Certificate
No. 5641 issued to NorthPoint
Communications, Inc. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 010368-TX
ORDER NO. PSC-01-1233-PAA-TX
ISSUED: June 1, 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 GRANTING VOLUNTARY CANCELLATION OF
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.

NorthPoint Communications, Inc. (NorthPoint) currently holds
Certificate of Public Convenience and Necessity No. 5641, issued by
the Commission on June 13, 1998, authorizing the provision of
Alternative Local Exchange Telecommunications (ALEC) service. The
Division of Administration advised our staff by memorandum that
NorthPoint had not paid the 2000 Regulatory Assessment Fees (RAFs).
Also, accrued statutory penalties and interest charges for late
RAFs payments for the year 2000 had not been paid. NorthPoint was
scheduled to remit its RAFs by January 30, 2001.

DOCUMENT NUMBER-DATE

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FPSC-REGULATORY REPORTING

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 ALEC service.

On March 26, 2001, staff received a letter from Mr. Michael E. Olsen, NorthPoint's Vice President and Deputy General Counsel. Mr. Olssen stated that the company is requesting cancellation of ALEC Certificate No. 5641 because the company is in Chapter 11 bankruptcy. Mr. Olsen stated in the letter that the company has no retail customers and that its only customers were businesses that resold NorthPoint's DSL services. NorthPoint has notified its customers that the service is being terminated and provided the customers with information concerning alternative service providers.

Chapter 11 of Section 109 of the Federal Bankruptcy Code provides for reorganization by business entities. The filing of a bankruptcy petition under Chapter 11 invokes an automatic injunction known as the Automatic Stay, Codified in Bankruptcy Code Section 362. Section 362(b)(5) provides that, for governments, the filing of the petition does not operate as a stay "of the enforcement of a judgment, other than a money judgment, obtained in an actual proceeding by a governmental unit to enforce such governmental unit's police or regulatory power." (emphasis added) Thus, it would appear that we are not enjoined from exercising our police powers to protect public health, safety and welfare, but are enjoined from exercising our regulatory authority to collect a debt or engage in other economic regulation. However, in this case, the Company has requested cancellation of its certificate. Under those circumstances, we are free to do so. Accordingly, we find it appropriate to cancel ALEC Certificate No. 5641, effective March 26, 2001. In addition, the Division of Administration shall be notified that the past due RAFs should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write off the uncollectible amount should be requested. NorthPoint shall return to this Commission the Order granting authority to provide ALEC services. We are vested with

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jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes.

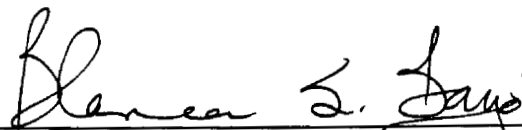
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that NorthPoint Communications, Inc.'s Certificate No. 5641 to provide Alternative Local Exchange Telecommunications (ALEC) service is hereby canceled, effective March 26, 2001. It is further

ORDERED that the past due RAFs shall not be sent to the Comptroller's Office for collection and permission to write of the uncollectible amount shall be requested. It is further

ORDERED that this Docket is closed.

By ORDER of the Florida Public Service Commission this 1st day of June, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JAE

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

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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 June 22, 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.