

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
Interexchange Telecommunications  
Certificate No. 3533 issued to  
LDC Consultants for violation of  
Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 010719-TI

In re: Cancellation by Florida  
Public Service Commission of  
Interexchange Telecommunications  
Certificate No. 5767 issued to  
Mercury Marketing Company, Ltd.  
for violation of Rule 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies.

DOCKET NO. 011003-TI

In re: Cancellation by Florida  
Public Service Commission of  
Interexchange Telecommunications  
Certificate No. 7630 issued to  
Utility.com, Inc. for violation  
of Rule 25-4.0161, F.A.C.,  
Regulatory Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 011007-TI  
ORDER NO. PSC-01-2080-PAA-TI  
ISSUED: October 19, 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 CANCELING INTEREXCHANGE TELECOMMUNICATIONS  
CERTIFICATES INVOLUNTARILY

DOCUMENT NUMBER-DATE

13287 OCT 19 2001

FPSC-COMMISSION CLERK

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.

The Division of the Commission Clerk and Administrative Services advised our staff by memorandum that the entities listed below had not paid the 2000 Regulatory Assessment Fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Also, accrued statutory penalties and interest charges for late RAFs payments for the year 2000 had not been paid. The entities were scheduled to remit the RAFs by January 30, 2001.

<u>ENTITY'S NAME</u>	<u>CERTIFICATE NO.</u>	<u>EFFECTIVE DATE</u>
LDC Consultants	3533	06/11/01
Mercury Marketing Company, Ltd.	5767	07/10/01
Utility.com, Inc.	7630	03/21/01

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 Interexchange Telecommunications service. 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.

On June 11, 2001, the Division of the Commission Clerk & Administrative Services provided our staff with a copy of LDC Consultants' blank 2000 RAF return with the note "no longer in business" written on it. The company did not include payment for the 2000 RAF. Staff wrote the company on August 10, 2001 and explained that Rule 25-24.474, Florida Administrative Code, states

that a company must provide its intent and date to pay the current year's RAF. The company owes the 2000 RAF, plus statutory penalty and interest charges for the years 1994, 1995, 1997, 1999, and 2000. In addition, the 2001 RAF will become due January 30, 2002. As of September 26, 2001, the company has not complied with Rule 25-24.474, Florida Administrative Code, by providing the date the 2001 RAF will be paid or paying the outstanding amount.

On July 10, 2001, the Commission received a letter from Ms. Judith A. Riley of Telecom Professionals, Inc., representative of Mercury Marketing Company, which requested cancellation of the company's certificate. Our staff spoke with Ms. Riley and was told that there are no funds to pay any remaining liabilities. The company will owe the 2001 RAF, plus has an outstanding balance of the statutory penalty and interest charges for the year 1999. As of September 26, 2001, the company has not complied with Rule 25-24.474, Florida Administrative Code, by providing the date the 2001 RAF will be paid or paying the outstanding amount.

On March 21, 2001, the Commission received a letter from the Utility.com, which requested cancellation of its certificate. Our staff wrote the company on April 3, 2001 and explained that in order to grant a voluntary cancellation, the company must pay the past due amount and comply with Rule 25-24.474, Florida Administrative Code, which provides that a company must provide its intent and date to pay the current year's RAF. On July 23, 2001, the Commission received a bulletin from CMA Business Credit Services, which advised that Utility.com, Inc. had filed for a "General Assignment", which is an alternative to bankruptcy proceedings in California. The company owes the 2000 RAF, plus statutory penalty and interest charges for the year 2000. As of September 26, 2001, the company has not complied with Rule 25-24.474, Florida Administrative Code, by providing the date the 2001 RAF will be paid or paying the outstanding amount.

The entities have not complied with Rule 25-24.474(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be cancelled.

(c) A statement on treatment of customer deposits and final bills.

(d) Proof of individual customer notice regarding discontinuance of service.

Accordingly, since each of the entities' respective certificate remains active until each entity requests a voluntary cancellation pursuant to Rule 25-24.474(2), Florida Administrative Code, or we involuntarily cancel the certificate, the entities are responsible for the RAFs. As of the date of the vote, the entities continue to be in violation of our rules for nonpayment of RAFs for 2000.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we deny each of the entities' request for voluntary cancellation of Interexchange Telecommunications certificates for failure to comply with the provisions of Rule 25-24.474(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel the certificates listed below, effective on the dates shown, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code.

Since these entities are no longer in business, there would be no purpose in requiring them to pay a fine. By involuntarily canceling each of the entities' certificate, however, we would be able to track these entities should any apply for another certificate with us in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes any of the entities' obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. We are vested jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the requests for voluntary cancellation of Interexchange Telecommunications certificates listed herein are hereby denied. It is further

ORDERED that pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, the Interexchange Telecommunications certificates listed herein are hereby canceled, effective on the dates shown above, for failure to comply with Rule 25-24.474(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the cancellation of the certificate in no way diminishes any of the entities' obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. It is further

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

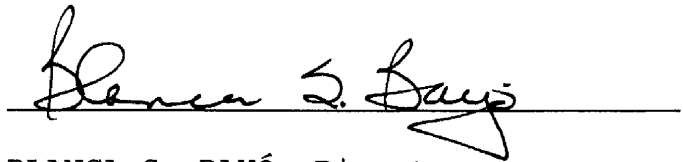
ORDERED that, if a protest is filed as to the involuntary cancellation of the certificate of any particular entity or entities, that protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. It is further

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 the Commission Clerk and Administrative Services, 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, these dockets shall be closed.

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By ORDER of the Florida Public Service Commission this 19th  
Day of October, 2001.



BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

KMP

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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 9, 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.