

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Alternative Local Exchange
Telecommunications Certificate
No. 7303 issued to American
Fiber Network, Inc. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 011273-TX
ORDER NO. PSC-01-2402-AS-TX
ISSUED: December 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

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

American Fiber Network, Inc. (American Fiber Network) currently holds Certificate of Public Convenience and Necessity No. 7303, issued by the Commission on January 25, 2000, authorizing the provision of Alternative Local Exchange Telecommunications service. The Division of the Commission Clerk and Administrative Services advised our staff that American Fiber Network 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 year 2000. Also, accrued statutory penalties and interest charges for late RAFs payments for the year 2000 had not been paid. American Fiber Network was scheduled to remit its RAFs by January 30, 2001.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAFs of \$50 if the certificate

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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. 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. All entities that apply for certification receive a copy of our rules governing Alternative Local Exchange Telecommunications service.

After this docket was established, on October 2, 2001, Mr. Bob Innes, representative of American Fiber Network, contacted our staff and requested the 2000 RAFs return notice and the company's options to resolve this docket. American Fiber Network has since paid the 2000 RAFs, including accrued statutory penalties and interest charges, offered to contribute \$250 to the State General Revenue Fund, and proposed to pay future RAFs on a timely basis.

We believe that the terms of the settlement agreement represent a fair and reasonable resolution of this matter. Accordingly, we hereby accept the settlement offer. American Fiber Network must comply with these requirements within ten business days from the date of issuance of this Order. The contribution should be identified with the docket number and the company name. Upon timely receipt, the contribution will be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. American Fiber Network has waived any objection to the administrative cancellation of its certificate if it does not comply with its settlement agreement. Upon remittance of the \$250 contribution or cancellation of the certificate, this docket shall be closed. We are 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 American Fiber Network, Inc.'s settlement proposal set forth in the body of this Order is hereby approved. It is further

ORDERED that this docket shall remain open pending timely receipt of the \$250 contribution. The contribution will be


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transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that if American Fiber Network, Inc. fails to comply with this Order, its certificate will be canceled administratively. It is further

ORDERED that upon receipt of the \$250 contribution or cancellation of the certificate this docket shall be closed.

By ORDER of the Florida Public Service Commission this 12th Day of December, 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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak

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Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.