

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Alternative Local Exchange
Telecommunications Certificate
No. 7166 issued to Legends
Communications, Inc. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 011244-TX
ORDER NO. PSC-02-0238-PAA-TX
ISSUED: February 25, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

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.

Legends Communications, Inc. (Legends Communications)
currently holds Certificate of Public Convenience and Necessity No.
7166, issued by the Commission on October 15, 1999, authorizing the
provision of Alternative Local Exchange Telecommunications (ALEC)
services. The Division of the Commission Clerk and Administrative

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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Services advised our staff that Legends Communications 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. Legends Communications was scheduled to remit its RAFs by January 30, 2001.

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. 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 ALEC service.

The Division of the Commission Clerk & Administrative Services' records show that the company had not paid its 2000 regulatory assessment fee, plus statutory penalty and interest charges. Ms. Rebecca Dean called our staff on October 11, 2001 and advised that the past due amount would be paid. However, Legends Communications did not follow through by proposing a settlement or requesting cancellation of its certificate to resolve this docket.

Although Legends Communications has now paid the past due RAFs, it still appears that it has failed to comply with Rule 25-4.0161, Florida Administrative Code, by not addressing its apparent non-compliance with the rule or propose a settlement. Legends Communications also is the holder of Interexchange Telecommunications (IXC) Certificate No. 6094. In Docket No. 011027-TI, Order No. PSC-01-2487-PAA-TI issued on December 20, 2001, the Commission imposed a \$1,000 fine, then suspended the fine, conditioned upon timely payment of future RAFs. Docket No. 011027-TI was the second docket established for the same rule violation for Legends Communications' IXC certificate. Both its IXC and ALEC certificates have been in effect since 1999 and Legend Communications has filed its returns and paid the RAFs late each year. In addition, as of February 6, 2002, the 2001 RAF, which was

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due January 30, 2002, has not been received for either certificate.

For the reasons described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Legends Communications' certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Legends Communications pays a \$500 fine and remits all past due RAFs, along with accrued statutory penalties and interest charges, to the Florida Public Service Commission. Legends Communications must comply with these requirements within seven days after the date of issuance of the Consummating Order, as explained in the Notice of Further Proceedings attached to this Order. The payment should be identified with the docket number and the company's name. 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 Legends Communications fail to comply with this Order within seven days after the date of issuance of the Consummating Order, Legends Communications 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 in no way diminishes Legends Communications' obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges. 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 Legends Communications, Inc. shall pay the past due Regulatory Assessment Fees, statutory penalties, interest charges, and a \$500 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 seven days after the date of issuance of the Consummating Order. The fine will be transmitted to the

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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 Legends Communications, Inc. fail to
comply with this Order, Legends Communications, Inc.'s Certificate
No. 7166 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 in no way
diminishes Legends Communications, 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
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, this
docket shall be closed upon payment of the fine and fees, or upon
cancellation of the certificate.

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By ORDER of the Florida Public Service Commission this 25th
Day of February, 2002.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
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 March 18, 2002.

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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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.