

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
ALEC Certificate No. 7668 issued  
to Evolution Networks South,  
Inc. for violation of Rule 25-  
4.0161, F.A.C., Regulatory  
Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 020602-TX  
ORDER NO. PSC-02-1333-PAA-TX  
ISSUED: October 2, 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 PENALTY 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.

Evolution Networks South, Inc. (Evolution Networks South)  
currently holds Certificate of Public Convenience and Necessity No.  
7668, issued by the Commission on December 8, 2000, authorizing the  
provision of Alternative Local Exchange Telecommunications (ALEC)  
services. The Division of the Commission Clerk and Administrative  
Services advised our staff that Evolution Networks South had not  
paid the Regulatory Assessment Fees (RAFs) required by Section  
364.336, Florida Statutes, and Rule 25-4.0161, Florida

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Administrative Code, for the year 2001. Also, accrued statutory penalties and interest charges for late RAFs payments for the year(s) YEAR(S) had not been paid. Evolution Networks South was scheduled to remit its RAFs by January 30, 2002.

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.

For the reason described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Evolution Networks South's certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Evolution Networks South pays a \$500 penalty and remits all past due RAFs, along with accrued statutory penalties and interest charges, to the Florida Public Service Commission. Evolution Networks South must comply with these requirements within 14 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 penalty 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 penalty are received, this docket shall be closed. Should Evolution Networks South fail to comply with this Order within 14 days after the date of issuance of the Consummating Order, Evolution Networks South 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 Evolution Networks South's obligation to pay

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applicable delinquent RAFs, and accrued statutory penalties and interest charges. If Evolution Networks South's certificate is canceled in accordance with this Order, Evolution Networks South shall immediately cease and desist providing ALEC services in Florida. 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 Evolution Networks South, Inc. shall pay the past due Regulatory Assessment Fees, statutory penalties, interest charges, and a \$500 penalty 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 14 days after the date of issuance of the Consummating Order. The penalty will be transmitted to the 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 Evolution Networks South, Inc. fail to comply with this Order, Evolution Networks South, Inc.'s Certificate No. 7668 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 Evolution Networks South, Inc.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. It is further

ORDERED that if Evolution Networks South, Inc.'s certificate is canceled in accordance with this Order, Evolution Networks South, Inc. shall immediately cease and desist providing Alternative Local Exchange Telecommunications services in Florida. 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

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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 penalty and fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 2nd Day of October, 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 )

AJT

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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 23, 2002.

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.