

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of IXC Certificate No. 6094 issued to Legends Communications, Inc. for violation of Rules 25-4.0161, F.A.C, Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480, F.A.C., Records & Reports; Rules Incorporated.

DOCKET NO. 020692-TI  
ORDER NO. PSC-02-1433-PAA-TI  
ISSUED: October 18, 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 CANCELLING  
INTEREXCHANGE 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.

I. CASE BACKGROUND

Legends Communications, Inc.'s (Legends) interexchange telecommunications carrier (IXC) Certificate No. 6094 became effective May 26, 1999. Since that time, every year the company

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has paid their Regulatory Assessment Fees (RAFs) after the due date. In addition, two other dockets were established for nonpayment of the Regulatory Assessment Fees. In Docket No. 001318-TI, Order No. PSC-01-0054-AS-TI was issued on January 8, 2001 and the Commission approved the company's proposal to pay future RAFs on a timely basis and in Docket No. 011027-TI, Order No. PSC-01-2487-PAA-TI was issued on December 20, 2001, the Commission imposed, then suspended, a \$1,000 penalty and required future RAFs be paid timely. In contravention of that requirement, Legends has not paid its 2001 Regulatory Assessment Fee, statutory penalty, and interest charges.

Further, the company has had returned mail and has not updated the information within 10 days of the change of its address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Staff attempted to call the company, but was unsuccessful.

The Florida Public Service Commission is vested with jurisdiction over this matter pursuant to Sections 364.183, 364.285, 364.336 and 364.337, Florida Statutes.

## II. ANALYSIS

Legends has not paid its 2001 RAF, plus statutory penalty and interest charges. RAFs for the calendar year 2001 were due by January 30, 2002, and those fees are currently unpaid. Consequently, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and is in noncompliance with its previous settlement proposal and of Order No. PSC-01-2487-PAA-TI issued on December 20, 2001.

Since this is the third docket established for nonpayment of the RAFs, Legends Communications, Inc. should be well aware when the fees are due each year. The cancellation of a certificate for a third offense is consistent with a prior Commission decision. In Docket No. 000968-TC, by Order No. PSC-00-1815-PAA-TC, issued October 4, 2000, the Commission cancelled James M. Bracewell d/b/a Southern Tele-Communications' pay telephone certificate for

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violating the RAF rule in three separate dockets (Nos. 971340-TC, 981273-TC, and 000968-TC).

In addition, Legends has had returned mail and has not updated the information within 10 days of the change of its address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Attempts to call the company were unsuccessful. Therefore, it appears the company has failed to comply with Rule 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated, and has not requested cancellation of its certificate in compliance with Rule 25-24.474(2), Florida Administrative Code.

Based on the above, we hereby cancel Legends' IXC Certificate No. 6094 for apparent violations of Rule Nos. 25-5.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated. If the past due fee, including statutory penalty and interest charges, and the information required by Rule 25-24.480, Florida Administrative Code, are not received within fourteen (14) calendar days after the issuance of the Consummating Order, the past due RAF amount shall be forwarded to the Office of the Comptroller for further collection efforts. In addition, 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. The cancellation of the certificate in no way diminishes Legends' obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges.

If the Commission's Proposed Agency Action Order is not protested, the company's Certificate No. 6094 will be cancelled administratively. If Legends Communications, Inc.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, Legends Communications, Inc. shall be required to immediately cease and desist providing interexchange telecommunications services in Florida.

Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that Legends Communications, Inc.'s Certificate No. 6094 to provide Interexchange Telecommunications services shall be cancelled upon the issuance of a Consummating 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 if the past due regulatory assessment fees, including statutory penalty and interest charges, are not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be forwarded to the Office of the Comptroller for collection. It is further

ORDERED that if Legends Communications, Inc.'s certificate is cancelled in accordance with the Commission's Order, Legends Communications, Inc. shall immediately cease and desist providing Interexchange Telecommunications services in Florida. 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.

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By ORDER of the Florida Public Service Commission this 18th  
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 )

LHD

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,

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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 8, 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.