

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for  
certificate to provide  
alternative local exchange  
telecommunications service by  
Cellutel Communications Inc.

DOCKET NO. 020400-TX  
ORDER NO. PSC-03-0559-PAA-TX  
ISSUED: April 30, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION ORDER  
DENYING APPLICATION TO PROVIDE ALTERNATIVE LOCAL EXCHANGE  
SERVICES

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.

On May 7, 2002, Cellutel Communications Inc. (Cellutel) filed an application to provide alternative local exchange service in Florida. During our staff's review it was discovered that the application did not include the required financial, managerial and technical information.

On June 4, 2002, our staff spoke with the company representative concerning this problem, and was informed that the needed information would be sent to complete the application. Our staff called the company on June 25, 2002, and left a message requesting the information. On July 31, 2002, our staff e-mailed the company representative, and reiterated the need for the

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ORDER NO. PSC-03-0559-PAA-TX  
DOCKET NO. 020400-TX  
PAGE 2

information to be sent in by August 8, 2002. On August 5, 2002, our staff called the company again, and the phone number had been disconnected. Our staff mailed a certified letter to the company that same day.

On August 13, 2002, the Division of the Commission Clerk and Administrative Services informed our staff that mail for Cellutel was returned "signed and delivered" by the Post Office. The envelope was addressed to the official mailing address in the application.

To date, the applicant has not responded to our numerous inquiries regarding the company's technical, financial, and managerial capabilities. Section 364.337(1), Florida Statutes, states in part:

The commission shall grant a certificate of authority to provide alternative local exchange service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

Due to the applicant's failure to respond to repeated requests for the information necessary to process the application, we find that it is not in the public interest to grant a certificate to the applicant.

Based on the foregoing, we hereby deny Cellutel's application for a certificate to provide Alternative Local Exchange Telecommunications service. Granting Cellutel's application is not in the public interest in accordance with Section 364.335, Florida Statutes.

It is therefore,


ORDERED by the Florida Public Service Commission that Cellutel Communications Inc.'s application to provide Alternative Local Exchange Telecommunications service is denied. It is further

ORDER NO. PSC-03-0559-PAA-TX  
DOCKET NO. 020400-TX  
PAGE 3

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.

By ORDER of the Florida Public Service Commission this 30th day of April, 2003.



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

( S E A L )

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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.

ORDER NO. PSC-03-0559-PAA-TX  
DOCKET NO. 020400-TX  
PAGE 4

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 May 21, 2003.

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.