

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of CLEC Certificate No. 4871 issued to COMUSA, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

DOCKET NO. 030615-TX

In re: Cancellation by Florida Public Service Commission of CLEC Certificate No. 7841 issued to New Connects, Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.835, F.A.C., Rules Incorporated.

DOCKET NO. 030630-TX
ORDER NO. PSC-03-1094-PAA-TX
ISSUED: October 2, 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 IMPOSING PENALTY AND REQUIRING PAYMENT OF
DELINQUENT REGULATORY ASSESSMENT FEES, OR CANCELING COMPETITIVE
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

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FPSC-COMMISSION CLERK

substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

The following telecommunications providers have not paid their 2002 Regulatory Assessment Fees, plus statutory penalty and interest charges. This is the second docket opened against each company for nonpayment of the RAF. In each of the prior dockets, the companies listed below proposed settlements to resolve the dockets. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.¹

ENTITY'S NAME	CERTIFICATE NO.	PAST DUE RAFS	YEARS PENALTIES & INTEREST PAST DUE
COMUSA, Inc.	4871	2002	1997, 2001 and 2002
New Connects, Inc.	7841	2002	2002

In addition, each of the companies listed above have had returned mail and have not updated the information within 10 days of the change of their respective 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. Our staff attempted to call each company, but was unsuccessful. Therefore, it appears the companies listed above have failed to comply with Rule 25-24.480, Florida Administrative Code, Records & Reports; Rules Incorporated, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.820, Florida Administrative Code. The penalty amount recommended in these dockets is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the

¹Rules 25-4.0161 and 25-24.480, Florida Administrative Code, are incorporated by Rule 25-24.835, Florida Administrative Code. To avoid redundancy, hereafter, the Order refers only to Rules 25-4.0161 and 25-24.480, Florida Administrative Code.

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obligation to pay RAFs, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, we assess a total penalty of \$1,500 (\$1,000 for RAFs violation and \$500 for reporting requirements violation) or cancel each company's respective certificate, as listed above, for apparent violation of Rules 25-4.0161 and 25-24.480, Florida Administrative Code, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.480, Florida Administrative Code, are not received by us within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,500 shall be paid to the Florida Public Service Commission. If a company does not protest our Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received, that company's certificate shall be cancelled administratively and the collection of the past due fees shall be referred to the Florida Department of Financial Services for further collection efforts. If a company's certificate is cancelled in accordance with this Order, the respective company shall be required to immediately cease and desist providing competitive local exchange services in Florida.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the entities listed herein shall pay the past due Regulatory Assessment Fees, statutory penalties, interest charges, and a \$1500 penalty to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rules 25-4.0161, and 25-24.480, incorporated by Rule 25-24.835, Florida Administrative Code, within 14 days after the issuance of the Consummating Order. The penalties will be referred to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should any of the entities fail to comply with this Order, that entity's certificate shall be canceled, effective on the date of issuance of the Consummating Order; the collection

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of the past due fees shall be referred to the Florida Department of Financial Services for further collection efforts; and the respective docket shall be closed. It is further

ORDERED that if an entity's certificate is canceled in accordance with this Order, that entity shall immediately cease and desist providing competitive local exchange telecommunications services in Florida. It is further

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that, if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this 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 in the event this Order becomes final, this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 2nd Day
of October, 2003.

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)

PAC

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.

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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, 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.