

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
CLEC Certificate No. 5799 issued
to Intercontinental
Communications Group, Inc. d/b/a
Fusion Telecom for violation of
Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 030620-TX
ORDER NO. PSC-03-1105-PAA-TX
ISSUED: October 6, 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 PENALTIES 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
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

Intercontinental Communications Group, Inc. d/b/a Fusion
Telecom (Fusion Telecom) currently holds Certificate of Public
Convenience and Necessity No. 5799, issued by the Commission on
March 25, 1999, authorizing the provision of CLEC service. The
Division of the Commission Clerk and Administrative Services
advised our staff that Fusion Telecom had not paid the Regulatory
Assessment Fees (RAFs) required by Section 364.336, Florida

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FPSC-COMMISSION CLERK

Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year(s) 2001; 2002. Also, accrued statutory penalties and interest charges for late RAFs payments for the year(s) 2001; 2002 had not been paid.

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 CLEC service.

Fusion Telecom has not paid its 2002 Regulatory Assessment Fee, plus statutory penalty and interest charges, and has a history of late payments. The company's certificate became effective March 25, 1999, and has paid the RAF after the due date each year. In addition, another docket was established for nonpayment of the RAF. Docket No. 001460-TX was established on September 25, 2000, for nonpayment of the 1999 RAF. On May 3, 2001, Order No. PSC-01-1059-AS-TX was issued, which accepted the company's \$100 settlement proposal. In its settlement offer, the company proposed to pay future RAFs in a timely manner. The company subsequently paid the \$100 settlement, and the docket was closed. Fusion Telecom has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and is not in compliance with its previous settlement proposal. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation. As of the date of the vote, Fusion Telecom continues to be in violation of our rules for nonpayment of RAFs for the year(s) 2001; 2002.

For the reasons described above, we find that Fusion Telecom has failed to comply with the provisions of Rule 25-24.0161, Florida Administrative Code.

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The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. If Fusion Telecom's certificate is canceled in accordance with this Order, Fusion Telecom shall immediately cease and desist providing CLEC services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that should Intercontinental Communications Group, Inc. d/b/a Fusion Telecom fail to comply with this Order, that Intercontinental Communications Group, Inc. d/b/a Fusion Telecom's certificate 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 respective docket shall be closed. It is further

ORDERED that the cancellation of the certificate in no way diminishes Intercontinental Communications Group, Inc. d/b/a Fusion Telecom's obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. It is further

ORDERED that if Intercontinental Communications Group, Inc. d/b/a Fusion Telecom's certificate is canceled in accordance with this Order, Intercontinental Communications Group, Inc. d/b/a Fusion Telecom shall immediately cease and desist providing Competitive 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 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

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ORDERED that in the event this Order becomes final, this docket shall be closed upon payment of the penalties, and fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 6th 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)

JPR

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 27, 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.