

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-03-1252-PAA-TX  
ISSUED: November 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

REISSUANCE OF 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:

**This is a reissuance of Order No. PSC-03-1105-PAA-TX. Due to a scrivener's error the Order initially issued was deficient in describing the penalties imposed. The order is therefore being reissued to reflect proper penalties and to give the affected parties appropriate notice and opportunity to respond.**

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.

DOCUMENT NUMBER-DATE

11057 NOV-6 8

FPSC-03-1105-PAA-TX

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 Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2002. Also, accrued statutory penalties and interest charges for late RAFs payments for the years 2001 and 2002 have 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

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vote, Fusion Telecom continues to be in violation of our rules for nonpayment of RAFs for the year 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. We therefore impose a \$1000 penalty upon Fusion Telecom for failure to pay the Regulatory Assessment Fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2002.

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 a penalty of \$1000 has been imposed upon Intercontinental Communications Group, Inc. d/b/a Fusion Telecom for failure to pay the Regulatory Assessment Fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2002. It is further

ORDERED that should Intercontinental Communications Group, Inc. d/b/a Fusion Telecom fail to pay the \$1000 penalty, outstanding RAFs, and statutory penalties and interest within 14 calendar days of the consummating order, that Intercontinental Communications Group, Inc. d/b/a Fusion Telecom's certificate shall be canceled administratively, effective on the date of issuance of the Consummating Order, the collection of the past due RAFs and statutory penalties and interest shall be referred to the Department of Financial Services 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 (2002), and accrued statutory penalties and interest charges(2001; 2002). 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

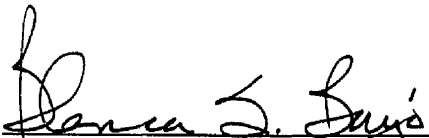
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Fusion Telecom shall immediately cease and desist providing Competitive Local Exchange Telecommunications services in Florida. It is further

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

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 November, 2003.

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

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 November 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.

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**ATTACHMENT A**

2<sup>nd</sup> Time Offender - Nonpayment of RAFs - \$1,000 Penalty

<u>Docket No.</u>	<u>Provider</u> <u>Last Reported Revenues &amp;</u> <u>Period Ended</u>	<u>Cert.</u> <u>No.</u>	<u>RAFs</u>	<u>Penalty</u> <u>and</u> <u>Interest*</u>
030620-TX	Intercontinental Communications Group, Inc. d/b/a Fusion Telecom \$92,899 Revenues 12/31/01	5799	2002	2001 2002

\*Years penalty and/or interest was not paid