

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of LightWave Communications, LLC for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 040409-TX
ORDER NO. PSC-04-0661-PAA-TX
ISSUED: July 8, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
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 substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

LightWave Communications, LLC (LightWave) currently holds Certificate of Public Convenience and Necessity No. 8006, issued by the Commission on January 30, 2002, authorizing the provision of Competitive Local Exchange Telecommunications (CLEC) services. The Division of the Commission Clerk and Administrative Services advised our staff that LightWave 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 2004. Also, accrued statutory penalties and interest charges for late RAFs payments for the year 2002 had not been paid. LightWave was scheduled to remit its RAFs by January 30, 2004.

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

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FPSC-COMMISSION CLERK

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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.

For the reason described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel LightWave's certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless LightWave remits all past due RAFs, along with accrued statutory penalties and interest charges, to the Florida Public Service Commission. LightWave must comply with these requirements within 14 days after the date of issuance of the Consummating Order, as explained in the Notice of Further Proceedings attached to this Order. The payment should be identified with the docket number and the company's name. The penalty will be remitted to the Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285 (1), Florida Statutes.

When the appropriate fees, statutory penalties, interest charges, and penalty are received, this docket shall be closed. Should LightWave fail to comply with this Order within 14 days after the date of issuance of the Consummating Order, LightWave shall have its certificate canceled, effective on the date of issuance of the Consummating Order; the collection of the past due fees shall be referred to the Department of Financial Services for further collection efforts; and the docket shall be closed. The cancellation of the certificate in no way diminishes LightWave's obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges. If LightWave's certificate is canceled in accordance with this Order, LightWave shall immediately cease and desist providing CLEC services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.337, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that LightWave Communications, LLC shall pay the past due Regulatory Assessment Fees, statutory penalties, and interest charges to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, within 14 days after the date of issuance of the Consummating Order. The penalty will be transmitted to the Department of Financial Services for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that pursuant to Rule 25-24.820(1)(b), Florida Administrative Code, should LightWave Communications, LLC fail to comply with this Order, LightWave Communications, LLC's Certificate No. 8006 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 Department of Financial Services for further collection efforts; and the docket shall be closed. It is further

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ORDERED that the cancellation of the certificate in no way diminishes LightWave Communications, LLC's obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. It is further

ORDERED that if LightWave Communications, LLC's certificate is canceled in accordance with this Order, LightWave Communications, LLC shall immediately cease and desist providing Competitive Local Exchange Telecommunications services in Florida. It is further

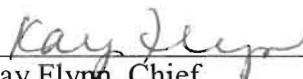
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission 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 penalty and fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 8th day of July, 2004.

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

By:



Kay Flynn, Chief
Bureau of Records

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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.

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 July 29, 2004.

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.