

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of FoxTel, Inc. for apparent violation of Sections 364.02 and 364.336, Florida Statutes. | DOCKET NO. 040427-TI  
| ORDER NO. PSC-04-0783B-CO-TI  
| ISSUED: October 18, 2004

AMENDATORY ORDER

BY THE COMMISSION:

On July 8, 2004, this Commission issued Order No. PSC-04-0662-PAA-TI, imposing a \$10,000.00 penalty on the company for its apparent violation of Section 364.02(13), Florida Statutes, and \$500.00 penalty for its apparent violation of Section 364.336, Florida Statutes. If the Order was not timely protested, the Commission further required that the company pay the assessed penalties, as well as the outstanding Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after issuance of the Consummating Order. If such payment was not timely received, the Commission determined that, the company's tariff would be cancelled, its Registration No. TJ039 would be removed from the Commission's register, and the collection of the past due fees would be referred to the Department of Financial Services for further collection efforts. Thereafter, if Foxtel's tariff was cancelled and its Registration No. TJ039 removed from the register, the company would be required to immediately cease and desist providing intrastate interexchange telecommunications services in Florida. We contemplated that this docket would be closed administratively upon either timely receipt of the payment of the penalties and Regulatory Assessment Fees, with statutory penalty and interest, or upon the cancellation of the company's tariff and the removal of the company's registration number from the register.

However, our initial Proposed Agency Action Order contained a scrivener's error that indicated that the assessed penalty should be forwarded to the Department of Financial Services if the company failed to respond, instead of the outstanding Regulatory Assessment Fee and associated statutory penalties and interest. Subsequently, our Consummating Order, Order No. PSC-04-0783-CO-TI was issued, and erroneously closed this Docket prior to expiration of the contemplated 14-day period in our original Order. While we issued an Amendatory Order, Order No. PSC-04-0783A-CO-TI, on August 13, 2004, to correct the inadvertent deletion of the 14-day period, that Order also carried with it the erroneous reference to referral of the penalty to the Department of Financial Services. As such, we hereby issue this second Amendatory Order correcting both our original Order, Order No. PSC-04-0662-PAA-TI, as well as Order No. PSC-04-0783A-CO-TI, to reflect that should the company fail to respond, which it apparently has not, the assessed penalty totaling \$10,500.00 will not be forwarded to the Florida Department of Financial Services for further collection efforts, but the past due Regulatory Assessment fees, as well as the associated statutory penalties and interest, shall be forwarded to the Department of

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Financial Services for further collection efforts. All Orders referenced herein are otherwise reaffirmed in all respects.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. PSC-04-0662-PAA-TI, as well as Order No. PSC-04-0783A-CO-TI, are hereby amended to reflect that the assessed penalty totaling \$10,500.00 will not be forwarded to the Florida Department of Financial Services for further collection efforts, but the past due Regulatory Assessment fees, as well as the associated statutory penalties and interest, shall be forwarded to the Department of Financial Services for further collection efforts. It is further

ORDERED that the Orders referenced herein are otherwise reaffirmed in all other respects.

By ORDER of the Florida Public Service Commission this 18th day of October, 2004.

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

( S E A L )

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