

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
ALEC Certificate No. 4769 issued  
to Easy Phone, Inc. d/b/a Easy  
Tel, Inc. for violation of Rule  
25-4.0161, F.A.C., Regulatory  
Assessment Fees;  
Telecommunications Companies.

DOCKET NO. 992038-TX  
ORDER NO. PSC-00-0878-PAA-TX  
ISSUED: May 5, 2000

The following Commissioners participated in the disposition of  
this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER

NOTICE OF PROPOSED AGENCY ACTION  
ORDER CANCELING ALTERNATIVE LOCAL EXCHANGE  
TELECOMMUNICATIONS CERTIFICATE INVOLUNTARILY

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.

Easy Phone, Inc. d/b/a Easy Tel, Inc. (Easy Tel, Inc.)  
currently holds Certificate of Public Convenience and Necessity  
No. 4769, issued by the Commission on January 8, 1997, authorizing  
the provision of Alternative Local Exchange Telecommunications  
service. Easy Tel, Inc. had not paid the Regulatory Assessment  
Fees [RAF(s)] required by Section 364.336, Florida Statutes, and  
Rule 25-4.0161, Florida Administrative Code, for the year 1998.  
Also, accrued statutory penalties and interest charges for the year  
1998 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

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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. All entities that apply for certification receive a copy of our rules governing Alternative Local Exchange Telecommunications service. All applicants must attest that these rules have been received and understood by the applicant and an affidavit must be attached to the application in order for the application to be processed.

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 fees is due. 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. However, pursuant to Section 350.113(4), Florida Statutes, the Commission shall provide at least a 45 days notice of the date the payment is due prior to the due date. Easy Tel, Inc. was scheduled to remit its 1998 RAFs by February 1, 1999. The 1999 RAFs were scheduled to be remitted by January 30, 2000.

On July 22, 1999, the Commission received a letter from Easy Tel's president, Ms. Lorinda C. Bucchieri, which requested cancellation of ALEC Certificate No. 4769. Ms. Bucchieri's letter stated that she had applied for an IXC certificate, but had never applied for an ALEC certificate. She further stated that she had entered into an agreement with Richard Pollara and his company, TelCom Plus, in December 1997, and that the agreement was canceled and voided in September 1998. She stated that Mr. Pollara must have applied for the ALEC certificate using her company name.

Ms. Bucchieri believes that fraud was committed in the application process of ALEC Certificate No. 4769. Nevertheless, cancellation on our own motion appears to be the best course of action. Therefore, our staff responded to the company's letter on September 20, 1999, and advised that they could not recommend approval of a voluntary cancellation when there was an outstanding balance. Commission records show that as of March 29, 2000, the 1998 and 1999 RAFs, plus accrued penalty and interest charges for both years, remain unpaid.

Easy.Tel, Inc. has not complied with Rule 25-24.820(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request. Cancellation of a certificate shall be ordered subject to the holder providing the required information.

(a) A statement of intent and date certain to pay regulatory assessment fee.

(b) A statement of why the certificate is proposed to be cancelled.

(c) A statement as to how customer deposits and final bills will be handled.

(d) Proof of individual customer notice regarding discontinuance of service.

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.820(2), Florida Administrative Code, or we involuntarily cancel the certificate, Easy Tel, Inc. is responsible for the RAFs. As of the date of this vote, Easy Tel, Inc. continues to be in violation of our rules for non-payment of RAFs for 1998 and 1999.

For the reasons described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we deny Easy Tel, Inc.'s request for voluntary cancellation of Alternative Local Exchange Telecommunications Certificate No. 4769 for failure to comply with the provisions of 25-24.820(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Easy Tel, Inc.'s certificate, effective the date of issuance of the Consummating Order, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. By involuntarily canceling Easy Tel, Inc.'s certificate, however, we would be able to track this company should it apply for another certificate with us in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes Easy Tel, Inc.'s obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges for 1998 and 1999.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Easy Phone, Inc. d/b/a Easy Tel, Inc.'s request for voluntary cancellation of Alternative Local Exchange Telecommunications Certificate No. 4769. It is further

ORDERED that pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we hereby cancel Easy Phone, Inc. d/b/a Easy Tel, Inc.'s Alternative Local Exchange Telecommunications Certificate No. 4769, effective the date of issuance of the Consummating Order, for failure to comply with Rule 25-24.820(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

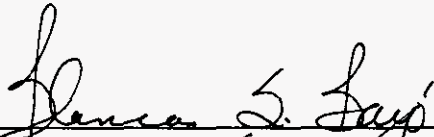
ORDERED that Easy Phone, Inc. d/b/a Easy Tel, Inc. remains obligated for all due and owing Regulatory Assessment Fees for the years 1998 and 1999, as well as accrued statutory penalties and interest charges. It is further

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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" 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 5th  
day of May, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 26, 2000.

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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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.