

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 2967 and
Alternative Local Exchange
Telecommunications Certificate
No. 7156 issued to Cleartel
Communications, Inc. for
violation of Rule 25-4.0161,
FAC, Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 000536-TP
ORDER NO. PSC-01-1282-PAA-TP
ISSUED: June 11, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING INTEREXCHANGE TELECOMMUNICATIONS
CERTIFICATE INVOLUNTARILY; AND IMPOSING FINE AND REQUIRING
PAYMENT OF DELINQUENT REGULATORY ASSESSMENT FEES, OR CANCELING
ALTERNATIVE 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.

Cleartel Communications, Inc. (Cleartel) currently holds
Certificate of Public Convenience and Necessity No. 2967, issued by
the Commission on June 17, 1992, authorizing the provision of
Interexchange Telecommunications (IXC) services and Certificate of

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Public Convenience and Necessity No. 7156, issued by the Commission on September 27, 1999, authorizing the provision of Alternative Local Exchange Telecommunications (ALEC) services.

Cleartel has 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 2000, for either certificate. Also, accrued statutory penalties and interest charges for the year 2000 have not been paid. Cleartel was scheduled to remit its RAFs by January 30, 2001. In addition, Cleartel owes statutory penalty and interest charges for the year 1998 on its IXC certificate.

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. All entities that apply for certification receive a copy of our rules governing IXC or ALEC services.

On May 2, 2000, we received a letter from Ms. Connie Wightman of Technologies Management, Inc., consultant to Cleartel Communications, Inc. Ms. Wightman requested cancellation of Cleartel Communications, Inc.'s IXC certificate. The letter advised that Cleartel Communications, Inc.'s long distance customer base was acquired by another certificated company and that all customers had been notified. In addition, Ms. Wightman advised that Cleartel wished to keep its ALEC certificate active at this time.

After our staff received a letter from Cleartel's consultant, which requested voluntary cancellation of its IXC certificate, our staff contacted Ms. Wightman and advised that a voluntary cancellation could not be recommended when there was an outstanding balance. Ms. Wightman was further advised that Cleartel needed to pay the past due 2000 RAFs, for Cleartel's IXC Certificate, as required by Rule 25-24.474, Florida Administrative Code. Ms. Wightman advised our staff that she had been unsuccessful in getting Cleartel to return her calls. In addition, our staff had attempted several times to contact Cleartel Communications, Inc., but was also unsuccessful. As of May 10, 2001, Cleartel had not

paid the 2000 RAFs for either certificate, including statutory penalties and interest charges for the years 1998 and 2000 on its IXC Certificate, and for the year 2000 on its ALEC Certificate.

Involuntary Cancellation of IXC Certificate

Cleartel has not complied with Rule 25-24.474(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:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

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

(c) A statement on treatment of customer deposits and final bills.

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

Accordingly, since Cleartel's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.474(2), Florida Administrative Code, or we involuntarily cancel the certificate, Cleartel is responsible for the RAFs.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we deny Cleartel's request for voluntary cancellation of IXC Certificate No. 2967 for failure to comply with the provisions of Rule 25-24.474(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Cleartel's certificate, effective May 2, 2000, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Cleartel shall return to this Commission the Order granting authority to provide IXC services.

Since Cleartel is no longer in business, there would be no purpose in requiring Cleartel to pay a fine. By involuntarily canceling Cleartel's certificate, however, we would be able to track this company should it apply for another certificate with us in the future. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts.

Cancellation of ALEC Certificate

Pursuant to Section 364.285, Florida Statutes, we may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of a certificate. The rule allows us to cancel a certificate on its own motion for violation of Commission Rules and Orders.

The Division of Administration's records show that Cleartel has not paid its 2000 RAFs, plus statutory penalty and interest charges. Therefore, it appears Cleartel has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. Although Cleartel's consultant has requested that its ALEC certificate be kept active, its 2000 RAF remains unpaid.

Therefore, for the reason described above, pursuant to Rule 25-24.820(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Cleartel's certificate for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Cleartel pays a \$500 fine and remits all past due RAFs, along with accrued statutory penalties and interest charges, to the Florida Public Service Commission. Cleartel must comply with these requirements within five business days after the date of issuance of the Consummating Order. The payment should be identified with the docket number and the company's name. The fine will be remitted to the Office of the Comptroller 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 fine are received, this Docket shall be closed.

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Should Cleartel fail to comply with the part of this Order regarding the ALEC certificate within five business days after the date of issuance of the Consummating Order, Cleartel shall have its ALEC certificate 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 Docket shall be closed.

The cancellation of the certificates and the closing of the Docket in no way diminishes Cleartel's obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges. The Commission is 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 we hereby deny Cleartel Communications, Inc.'s request for voluntary cancellation of Interexchange Telecommunications Certificate No. 2967. It is further

ORDERED that pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we hereby cancel Cleartel Communications, Inc.'s Interexchange Telecommunications Certificate No. 2967, effective May 2, 2000, for failure to comply with Rule 25-24.474(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that Cleartel Communications, Inc. shall return to this Commission the Order granting authority to provide Interexchange Telecommunications services. It is further

ORDERED that Cleartel Communications, Inc. remains obligated for all due and owing Regulatory Assessment Fees, for the Interexchange Telecommunications Certificate. The collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. It is further

ORDERED that Cleartel Communications, Inc. must pay the past due Regulatory Assessment Fees, statutory penalties, interest

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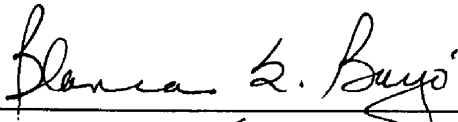
charges, and a \$500 fine to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, within five business days after the date of issuance of the Consummating Order. The fine will be transmitted to the Office of the Comptroller 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 Cleartel Communications, Inc. fail to comply with this Order, Cleartel Communications, Inc.'s Alternative Local Exchange Telecommunications Certificate No. 7156 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 Docket shall be closed. 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.

By ORDER of the Florida Public Service Commission, this 11th day of June, 2001.



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 July 2, 2001.

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.