

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 6094 issued to
Legends Communications, Inc. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 011027-TI
ORDER NO. PSC-01-2487-PAA-TI
ISSUED: December 20, 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 IMPOSING \$1,000 FINE, SUSPENDING FINE, AND REQUIRING
PAYMENT OF FUTURE REGULATORY ASSESSMENT FEES ON A TIMELY BASIS

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.

Legends Communications, Inc. (Legends) currently holds
Certificate of Public Convenience and Necessity No. 6094, issued by
the Commission on May 26, 1999, authorizing the provision of
Interexchange Telecommunications (IXC) service. The Division of
the Commission Clerk and Administrative Services advised our staff
that Legends had not paid the Regulatory Assessment Fees (RAFs)
required by Section 364.336, Florida Statutes, and Rule 25-4.0161,

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Florida Administrative Code, for the year 2000. Also, accrued statutory penalties and interest charges for late RAFs payments for the year 2000 had not been paid. Legends was scheduled to remit its RAFs by January 30, 2001.

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 IXC service.

This is the second docket opened against Legends Communications, Inc. for nonpayment of the RAFs. On January 8, 2001, Order No. PSC-01-0054-AS-TI was issued in Docket No. 001318-TI. The Order accepted the company's \$250 settlement. The company subsequently paid the past due RAFs and the \$250 contribution. The docket was then closed.

After this docket was established, on August 7, 2001, Ms. Rebecca Dean called on behalf of Legends. She requested the RAFs form and the company's options to resolve this docket. Our staff wrote to Legends on the same date and provided the RAFs return form and options. On September 25, 2001, we received Legends' payment for the 2000 RAFs, including all penalty and interest charges except \$0.50. Subsequently, on October 11, 2001, Ms. Dean called our staff and left a voice mail message, which stated that the \$0.50 underpayment would be paid. Our staff returned the call to Ms. Dean on October 11, 2001, and asked Ms. Dean if the company was going to propose a settlement to resolve this docket. Ms. Dean indicated that the company would likely do so, but, ultimately, the company did not propose an additional settlement.

Although Legends did not fully address its apparent non-compliance with the rule, we believe that Legends showed good faith efforts in attempting to bring itself into compliance with the rule. Therefore, since Legends has largely complied with Rule 25-4.0161, Florida Administrative Code, we find it appropriate to

assess the company a \$1,000 fine. We shall, however, suspend the fine conditioned upon Legends making future filings of the RAFs' forms and fees on a timely basis. Pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, the RAFs form and fees are due on January 30 every year. If Legends fails to make future filings on a timely basis, the fine assess herein shall become due and owing the day after the RAFs form and fees are due pursuant to Rule 25-4.0161, Florida Administrative Code. If the fine assessed herein becomes due and owing, the payment of the fine 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. If the fine and overdue RAFs are not received within five business days of assessment of the fine, the certificate will be cancelled administratively and the collection of any past due fees shall be referred to the Office of the Comptroller for further collection efforts. 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 Legends Communications, Inc. is hereby assessed a \$1000 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the \$1000 fine assessed herein is hereby suspended on the condition that the company make future filings and payments in a timely manner. It is further

ORDERED that should Legends Communications, Inc. fail to comply with this Order, the suspended fine will become due and owing the following calendar day after the last day its filings and fees could have been paid pursuant to Rule 25-4.0161, Florida Administrative Code. Legends Communications, Inc. shall pay the fine within five business days of assessment of the fine. The fine will be transmitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

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ORDERED that should Legends Communications, Inc. fail to comply with the conditions specified in this Order, Legends Communications, Inc.'s Certificate No. 6094 shall be canceled and the collection of any past due fees shall be referred to the Office of the Comptroller for further collection efforts. It is further

ORDERED that the cancellation of the certificate in no way diminishes Legends Communications, Inc.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and 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 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.

By ORDER of the Florida Public Service Commission this 20th Day of December, 2001.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

(S E A L)

KMP/BK

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 January 10, 2002.

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.