

State of Florida



Public Service Commission

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DATE: February 17, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Isler)
Office of the General Counsel (Scott) *KS B/V* *MM*

RE: Docket No. 040847-TX – Compliance investigation of InterCept Communications Technologies, Inc. for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.

AGENDA: 03/01/05 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\040847.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission accept InterCept Communications Technologies, Inc.'s settlement offer to voluntarily cancel its certificate to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code?

Recommendation: Yes. (Isler, Scott)

Staff Analysis: See attached proposed Order.

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

Docket No. 040847-TX
Date: February 17, 2005

Issue 2: Should this docket be closed?

Recommendation: Yes. Staff recommends that if the Commission approves staff's recommendation in Issue 1, this docket should be closed as no other issues need to be addressed by the Commission. (Scott)

Staff Analysis: Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of InterCept
Communications Technologies, Inc. for
apparent violation of Rule 25-4.0161, FAC,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 040847-TX
ORDER NO.
ISSUED:

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON
LISA POLAK EDGAR

ORDER GRANTING VOLUNTARY CANCELLATION OF COMPETITIVE LOCAL
EXCHANGE TELECOMMUNICATIONS CERTIFICATE

BY THE COMMISSION:

InterCept Communications Technologies, Inc. currently holds Competitive Local Exchange Company (CLEC) Certificate No. 7062, issued by this Commission on August 3, 1999. The Division of the Commission Clerk & Administrative Services advised our staff that InterCept Communications Technologies, Inc. had not paid the Regulatory Assessment Fee required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 2003. Also, accrued statutory late payment charges required by Section 350.113(4), Florida Statutes, for the year 2003 had not been paid. InterCept Communications Technologies, Inc. was scheduled to remit its 2003 Regulatory Assessment Fee by January 30, 2004. In addition, on May 7, 2004, our staff wrote the company and advised that payment of the 2003 Regulatory Assessment Fee should be paid by May 28, 2004, to avoid a docket from being established.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee (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 Regulatory Assessment Fee return 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 a certificate receive a copy of our rules governing Competitive Local Exchange telecommunications service.

After this docket was established, on November 18, 2004, Order No. PSC-04-1145-PAA-TX was issued, which imposed a \$500 penalty. The company had until December 9, 2004, to

respond to the Order. On December 9, 2004, the Commission received InterCept Communications Technologies, Inc.'s 2003 and 2004 Regulatory Assessment Fees and returns, along with the statutory late payment charges for the year 2003. In addition, the company's attorney, Mr. Charles A. Hudak of Friend, Hudak & Harris, LLP, wrote a letter requesting voluntary cancellation of the company's certificate to resolve this docket. Accordingly, we find it appropriate to cancel CLEC Certificate No. 7062, effective December 9, 2004. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.337, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that InterCept Communications Technologies, Inc.'s Certificate No. 7062 to provide Competitive Local Exchange Telecommunications services is hereby cancelled, effective December 9, 2004. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this _____ day of _____,

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

(S E A L)

KS

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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this

order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas, or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.