

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: April 9, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Compliance (Isler)
Office of the General Counsel (Morrow)

RE: Docket No. 090096-TX – Request for cancellation of CLEC Certificate No. 7885 by LPGA International Communications, LLC, effective March 2, 2009.

Docket No. 090117-TX – Request for cancellation of CLEC Certificate No. 8580 by Meridian TeleSystems, Inc., effective March 2, 2009.

Docket No. 090124-TX – Request for cancellation of CLEC Certificate No. 8712 by Applied Technology Solutions, Inc., effective March 13, 2009.

AGENDA: 04/21/09 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RCP\WP\090096.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission deny LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc., a voluntary cancellation of their respective competitive local exchange carrier (CLEC) Certificate Nos. 7885, 8580, and 8712 and

Docket Nos. 090096-TX, 090117-TX, 090124-TX

Date: April 9, 2009

cancel the certificates on the Commission's own motion with an effective date as listed in the docket titles?

Recommendation: Yes, the companies should be denied a voluntary cancellation as listed on Attachment A. (Isler, Morrow)

Staff Analysis: See attached proposed Order.

Issue 2: Should these dockets be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If an entity fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If an entity pays the Regulatory Assessment Fees, including applicable statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of that entity's CLEC certificate will be voluntary. If an entity fails to pay the Regulatory Assessment Fees, including applicable statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then that entity's CLEC certificate should be cancelled administratively, and the collection of the past due Regulatory Assessment Fees, including applicable statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If an entity's CLEC certificate is cancelled in accordance with the Commission's Order from this recommendation, that entity should be required to immediately cease and desist providing telecommunications service in Florida. These dockets should be closed administratively either upon receipt of the payment of the Regulatory Assessment Fees, including applicable statutory late payment charges, or upon cancellation of each entity's respective CLEC certificate. (Morrow)

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

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for cancellation of CLEC Certificate No. 7885 by LPGA International Communications, LLC, effective March 2, 2009.

DOCKET NO. 090096-TX

In re: Request for cancellation of CLEC Certificate No. 8580 by Meridian TeleSystems, Inc., effective March 2, 2009.

DOCKET NO. 090117-TX

In re: Request for cancellation of CLEC Certificate No. 8712 by Applied Technology Solutions, Inc., effective March 13, 2009.

DOCKET NO. 090124-TX
ORDER NO.
ISSUED:

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION ORDER
CANCELLING COMPETITIVE LOCAL EXCHANGE COMPANY CERTIFICATES
ON THE COMMISSION'S OWN MOTION

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.

LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc., currently hold Certificate Nos. 7885, 8580, and 8712, respectively, authorizing the provision of competitive local exchange carrier (CLEC) service. Pursuant to Section 364.336, Florida Statutes, telecommunication companies must pay a minimum annual Regulatory Assessment Fee 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. In addition, Rule 25-24.820, Florida Administrative Code, provides that a competitive local exchange telecommunications company requesting cancellation of its certificate must state its intent and date to pay the current Regulatory Assessment Fee (RAF).

This Commission received letters from all three companies requesting cancellation of their respective CLEC certificates. Our staff contacted the companies and explained that the RAFs needed to be paid, along with any accrued statutory late payment charges, to be granted a voluntary cancellation. The 2009 RAF remains unpaid for LPGA International Communications, LLC. The 2008 and 2009 RAFs, along with statutory late payment charges, remain unpaid for Meridian TeleSystems, Inc. The 2009 RAF remains unpaid for Applied Technology Solutions, Inc.

For the reasons described above, we deny LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc.'s requests for voluntary cancellation of their respective CLEC certificates. However, we find it appropriate to involuntarily cancel the certificates with an effective date as listed in the docket titles, on this Commission's own motion for failure to comply with Rule 25-24.820, Florida Administrative Code, and pursuant to Section 364.336, Florida Statutes.

The cancellation of the CLEC certificates in no way diminishes each entity's obligation to pay the applicable RAFs, including any accrued late payment charges. If this Order is not protested, each entity's respective CLEC certificate shall be cancelled with an effective date as listed in the docket titles. If an entity pays the RAFs, including any accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, then the cancellation of that entity's CLEC certificate shall be voluntary. If an entity fails to protest the Order or pay the RAFs, including accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, then that entity's CLEC certificate shall be cancelled administratively, and the collection of the unpaid fees shall be referred to the Florida Department of Financial Services for further collection efforts. If each entity's CLEC certificate is cancelled in accordance with this Order, that entity shall be required to immediately cease and desist providing telecommunications service in Florida. These dockets shall be closed administratively either upon receipt of the payment of the RAFs, including accrued late payment charges, or upon cancellation of each entity's respective CLEC certificate. If an entity's CLEC certificate is cancelled on this Commission's own motion and an entity subsequently decides to reapply for a telecommunications certificate, that entity shall be required to first pay any outstanding fees, including any accrued statutory late payment charges. We are vested with jurisdiction over these matters 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 pursuant to Rule 25-24.820, Florida Administrative Code, LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc.'s respective CLEC Certificate Nos. 7885, 8580, and 8712 are hereby cancelled effective the date listed in the docket titles, on this Commission's own motion for failure to pay the outstanding Regulatory Assessment Fees,

including accrued late payment charges, pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that the cancellation of each entity's respective certificate in no way diminishes LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc.'s obligation to pay the applicable Regulatory Assessment Fees, including any accrued late payment charges. If LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc.'s respective CLEC certificates are cancelled and an entity subsequently decides to reapply for a telecommunications certificate, that entity shall be required to first pay any outstanding fees, including any accrued statutory late payment charges. It is further

ORDERED that if LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc. pay the Regulatory Assessment Fees, including accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, the cancellation of each entity's respective certificate shall be deemed voluntary. It is further

ORDERED that if LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc. do not pay the Regulatory Assessment Fees, including accrued late payment charges, prior to the expiration of the Proposed Agency Action Order, the collection of the Regulatory Assessment Fees shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

ORDERED that if LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc.'s certificates are cancelled in accordance with this Order, LPGA International Communications, LLC, Meridian TeleSystems, Inc., and Applied Technology Solutions, Inc. shall immediately cease and desist providing telecommunications service in Florida. It is further

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. 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 Office of Commission Clerk, 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, these dockets shall be closed administratively either upon receipt of payment of the Regulatory Assessment Fees, including any late payment charges, or upon cancellation of each entity's respective certificate.

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

ANN COLE
Commission Clerk

(S E A L)
JLM

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on _____.

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