

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 2950 issued to TelNex, Inc. for violation of Rule 25-24.480(2)(a)(b), F.A.C., Records and Reports; Rules Incorporated, and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees.

DOCKET NO. 970446-TI
ORDER NO. PSC-97-1080-FOF-TI
ISSUED: September 16, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE AND REQUIRING PAYMENT OF
REGULATORY ASSESSMENT FEES OR CANCELING
INTEREXCHANGE TELECOMMUNICATION CERTIFICATE AND DIRECTING
CERTIFICATED INTEREXCHANGE TELECOMMUNICATIONS PROVIDERS
TO DISCONTINUE SERVICE

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.

TelNex, Inc. (TelNex or the company), an interexchange telecommunications carrier (IXC), currently holds certificate of public convenience and necessity number 2950, issued by the Commission on March 17, 1992, authorizing the provision of

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REGISTRATION/REPORTING

interexchange telecommunications service. TelNex has not paid the regulatory assessment fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the years 1991-1996. The last regulatory assessment fee form was mailed to TelNex in December, 1996, for the period of January 1, 1996, through December 31, 1996. 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. TelNex was notified of its delinquency on February 28, 1997. The company has been given adequate opportunity to pay. To date, the Commission's correspondence regarding the regulatory assessment fees has been returned by the post office, and TelNex has not paid the required fees.

The returned regulatory assessment fees notice also shows that TelNex has violated Rule 25-24.480(2)(a), Florida Administrative Code, by failing to report to us any address change within ten (10) days of its effectiveness. Our staff attempted to reach TelNex's contact person by telephone. These efforts were unsuccessful, thus providing evidence that the company has also violated Rule 25-24.480(2)(b), Florida Administrative Code, which requires any change in the name, title or telephone number of the individual responsible for Commission contact to be reported. It is of paramount importance that certificate holders remain diligent in furnishing the current information necessary to make contact with their representatives.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel TelNex's certificate, unless the company pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. We also find it appropriate to cancel the company's certificate unless it pays a \$500 fine for failure to comply with Rule 25-24.480 (2), Florida Administrative Code, provides the information required by Rule 25-24.480 (2), Florida Administrative Code, and remits all past due regulatory assessment fees, along with statutory penalties and interest charges, to the Florida Public Service Commission. TelNex must comply with these requirements within 5 business days from the date this Order becomes final. The fines will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

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When the appropriate fees, statutory penalties, interest charges, required information, and fines are received, this docket shall be closed. Should TelNex fail to comply with this Order within 5 business days from the date this Order becomes final, TelNex shall have its certificate canceled and the docket will be closed. The cancellation of a certificate and the closing of the docket in no way diminishes TelNex's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

Should TelNex's certificate be canceled, all certificated interexchange carriers in the State of Florida are instructed to discontinue service to TelNex, pursuant to Rule 25-24.4701(3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited. Any certificated interexchange carriers providing service to TelNex must contact the Commission at the conclusion of the response period indicated herein in order to determine if TelNex's certificate has been canceled.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TelNex, Inc. shall provide the correct mailing address, liaison information, and other information in accordance with Rule 25-24.480(2), Florida Administrative Code, and pay a \$500 fine to the Florida Public Service Commission for failure to comply with Rule 25-24.480 (2), Florida Administrative Code, within 5 business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that TelNex, Inc. must pay the past due regulatory assessment fees, statutory penalties, interest 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 5 business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should TelNex, Inc. fail to comply with this Order, TelNex, Inc.'s certificate shall be canceled, and the docket shall be closed. It is further

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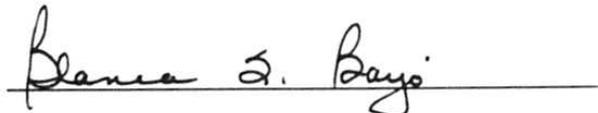
ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes TelNex, Inc.'s obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges. It is further

ORDERED that all certificated interexchange telecommunication providers shall discontinue service to TelNex, Inc. upon verification of the cancellation of the certificate at the conclusion of the response period set forth in this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, 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 upon payment of the fines, fees, and receipt of the required information, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission, this 16th day of September, 1997.



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 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.

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 and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), 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 October 7, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court.

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This filing must be completed within thirty (30) days of the effective date 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.