

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 3485 issued to
Datacomm International Company
LTD. for violation of Rules 25-
4.0161, F.A.C., Regulatory
Assessment Fees;
Telecommunications Companies,
and 25-24.480(2)(a) and (b),
F.A.C., Records and Reports;
Rules Incorporated.

DOCKET NO. 981059-TI
ORDER NO. PSC-98-1712-FOF-TI
ISSUED: December 18, 1998

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINES OR CANCELING INTEREXCHANGE
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.

Datacomm International Company LTD. (Datacomm) currently holds
Certificate of Public Convenience and Necessity No. 3485, issued by
the Commission on October 29, 1993, authorizing the provision of
interexchange telecommunications service. Under Section 364.336,
Florida Statutes, certificate holders must pay a minimum annual
regulatory assessment fee of \$50 if the certificate was active

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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 interexchange telecommunications service and an affidavit in which the applicants attest that the rules have been received and understood by the applicant. This affidavit must be attached to the application in order for the application to be processed.

The regulatory assessment fee forms are mailed to the entities in December of every year, for the period of January 1, through December 31. The Commission's correspondence to Datacomm was returned by the United States Postal Service. Datacomm was informed that it had not paid the regulatory assessment fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1997, nor statutory penalties and interest charges for the years 1996, and 1997.

The return of these materials indicates that Datacomm may have violated Rule 25-24.480(1)(a), Florida Administrative Code, which requires the reporting to the Commission of an address change within ten (10) days of its effectiveness. The Commission staff also attempted to reach the contact person of Datacomm by telephone. This effort was unsuccessful, indicating that Datacomm may have also violated Rule 25-24.480(1)(b), Florida Administrative Code, which requires the reporting to the Commission of a change in the name, title, or telephone number of the individual responsible for Commission contacts.

After this docket was opened but before our staff's recommendation was filed, Datacomm called our staff and immediately paid all the past due charges and updated the information required by Rule 25-24.480, Florida Administrative Code.

Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company fails to comply with Commission rules. For the reason described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Datacomm's certificate, unless Datacomm pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code; and a \$500 fine for failure to comply with Rule 25-24.480, Florida Administrative Code to the Florida Public Service Commission.

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Datacomm International Company LTD. must comply with these requirements within five 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.

When the fines are received, this Docket shall be closed. Should Datacomm fail to comply with this Order within five business days from the date this Order becomes final, Datacomm shall have its certificate canceled and the Docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Datacomm International Company LTD. must pay 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 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 Datacomm International Company LTD. must pay a \$500 fine to the Florida Public Service Commission for failure to comply with Rule 25-24.480, Florida Administrative Code, within five 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 Datacomm International Company LTD. fail to comply with this Order, Datacomm International Company LTD.'s certificate shall be canceled, 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 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

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ORDERED that in the event this Order becomes final, this Docket shall be closed upon payment of the fines or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 18th day of December, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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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. 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 January 8, 1999.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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. 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.