

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to provide competitive local exchange telecommunications service by Crystal Link Communications, Inc.	DOCKET NO. 090444-TX ORDER NO. PSC-10-0217-PAA-TX ISSUED: April 6, 2010
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The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING CRYSTAL LINK'S APPLICATION FOR CERTIFICATE TO PROVIDE
COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATIONS 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.

I. Case Background

On September 10, 2009, Crystal Link Communications, Inc. (Crystal Link) filed an application (Form PSC/CMP 8 (1/06) seeking Commission authority to provide competitive local exchange telecommunications services (CLEC) within Florida. After receiving Crystal Link's application, our staff carefully reviewed the application. When completing a CLEC application the company must:

- identify the persons responsible for the application and on-going company operations;
- provide contact information (address, phone number, etc.);
- provide proof of active registration with the Florida Secretary of State;
- complete a series of questions about the company, officers, directors, and stockholders; and
- provide proof that it has the managerial, technical, and financial capability to operate as a CLEC in Florida.

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Crystal Link's application identified Mr. Ricardo Cruz as liaison to this Commission regarding the application and for ongoing operations of the company. We verified Crystal Link's corporate registration, reviewed the managerial, technical, and financial information, and checked our databases for historical information about the company, officers, and directors. The corporate registration filed with the Secretary of State identified Crystal Link's officers as Mr. Richard V. Caceres, President and Mr. Ricardo Cruz, Secretary. Our records indicate that Mr. Cruz is associated with three telecommunications companies whose registration and or certificate we have cancelled for failure to pay regulatory assessment fees (RAF). Our records did not indicate that Mr. Caceres was associated with any telecommunications companies that were registered with or certificated by this Commission.

Mr. Cruz is listed in the Master Commission Directory and with the Secretary of State as the President of International Telnet, Inc., Transglobal Communications Enterprises, Inc., and Crystal Link Communications, Inc. International Telnet, Inc., Transglobal Communications Enterprise, Inc., and Crystal Link Communications, Inc. were all registered with this Commission as interexchange telecommunications companies (IXCs) (IXC Registration Nos. TI377, TI310, and TJ960 respectively). International Telnet, Inc. was also a certificated CLEC (CLEC Certificate No. 8378).

In Docket No. 060466-TI, In Re: Compliance Investigation of IXC Registration Holders for apparent first-time violation of Section 364.336, Florida Statutes, by Order No. PSC-06-0615-PAA-TI, issued July 20, 2006, we cancelled International Telnet, Inc., Transglobal Communications Enterprise, Inc., and Crystal Link Communications, Inc.'s IXC tariffs and registrations. We furthered ordered each of the companies to pay penalties and collection cost, totaling \$500, any past due RAFs, and statutory late payment charges. The Order became final and effective on August 15, 2006, upon issuance of Consummating Order No. PSC-06-0701-CO-TI.

In Docket No. 060642-TX, In Re: Compliance investigation of CLEC certificate holders for apparent first-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, by Order No. PSC-06-0611-PAA-TX, issued July 20, 2006, we cancelled International Telnet, Inc.'s CLEC and the company was ordered to pay penalties and collection cost, totaling \$500, any past due RAFs, and statutory late payment charges. The Order became final and effective on August 15, 2006, upon issuance of Consummating Order No. PSC-06-0705-CO-TX.

Part 16(e) of the CLEC application requires the company to list the states in which the company has had regulatory penalties imposed for violations of telecommunications statutes and the circumstances involved. Crystal Link's response to Part 16(e) was "None", which implies that the company has not had any penalties imposed against it for violations of telecommunications statutes in any state. However, a penalty was imposed upon the company in the State of Florida by this Commission for a violation of telecommunications statutes.

Part 17(c) of the CLEC application reads as follows:

Indicate if any of the officers, directors, or any of the ten largest stockholders have previously been an officer, director, partner or stockholder in any other Florida certificated or registered telephone company. If yes, give name of company and relationship. If no longer associated with company, give reason why not.

Crystal Link's response to Part 17(c) of the CLEC application was "None." Crystal Link failed to disclose Mr. Cruz's association with International Telnet, Inc., Transglobal Communications Enterprise, Inc., and Crystal Link Communications, Inc. on its CLEC application. Based upon Crystal Link's responses to Part 16(e) and Part 17(c) on its CLEC application, it appears that Crystal Link has failed to accurately respond to parts of the CLEC application.

In addition, on January 28, 2010, we received a letter from BellSouth Communications, Inc. d/b/a AT&T Florida and AT&T Communications of the Southern States, LLC (collectively AT&T), as well as a letter from Sprint Communications Company, Limited Partnership d/b/a Sprint (Sprint) on February 26, 2010. Both companies expressed concern regarding Crystal Link's CLEC application.

While neither AT&T nor Sprint are parties in this docket, AT&T stated that it was concerned that certain responses included in Crystal Link's application, while not false, may not accurately reflect facts that are material to our consideration of the application for certification. Specifically, Crystal Link failed to identify Mr. Cruz when asked if any of its officers, directors, or ten largest stockholders were previously denied certification or had such certification revoked. Sprint expressed similar concerns and both companies urged us to thoroughly examine Crystal Link's CLEC application.

Additionally, AT&T and Sprint also alleged in their letters that one of the companies previously operated by Mr. Cruz, whose certificate was revoked, also engaged in questionable business practices known as "churning." Churning occurs when a CLEC purchases lines from an incumbent local exchange carrier and allows its customers to make dial around toll calls then disconnects the lines to avoid paying the charges.

We have jurisdiction over these matters pursuant to Sections 364.02, and 364.337, Florida Statutes.

II. Analysis

Section 364.337(1), Florida Statutes, provides in part that this Commission shall grant a certificate of authority to provide competitive local exchange service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

When answering the questions on the CLEC application, it is imperative that companies respond accurately as we routinely use the information provided to assist in evaluating a company's managerial capability. As stated in the Case Background, Crystal Link failed to accurately respond to Part 16(e) and Part 17(c) of the CLEC application. After reviewing Crystal Link's CLEC application, we determined that one of Crystal Link's current officers was associated with three other telecommunications companies who were subject to compliance investigations by this Commission. Crystal Link's current Secretary, Mr. Cruz, served as President for three separate companies whose certificates and or registrations were cancelled by this Commission for failing to pay regulatory assessment fees. However, Crystal Link failed to disclose that information on the CLEC application.

Each company that Mr. Cruz operated was notified and aware of its financial responsibility as a telecommunications company to pay regulatory assessment fees. When each failed to pay those fees and became subject to a compliance investigation, the companies were again notified. As a managing officer of a company, it is the officer's managerial responsibility to make sure that the company operates smoothly and is in compliance with the rules and statutes governing the entity. It is also management's responsibility to respond to this Commission when contacted. However, under Mr. Cruz's management, each of the companies operated by him failed to comply with the Florida Statutes and this Commission's rules. In addition, neither the president of each of the companies nor the other presiding officers responded to this Commission when contacted or paid the companies' RAFs. As a result, each company's registration or certificate was revoked by this Commission.

In similar dockets, we have denied a company authorization to provide competitive local exchange services in Florida. In Docket No. 070172-TX, In Re: Application for certificate to provide competitive local exchange telecommunications service by Premier Telecom-VoIP, Incorporated, we denied Premier Telecom-VoIP, Incorporated's application to provide competitive local exchange telecommunications services for lack of managerial capability and for having a history of mismanagement.

III. Decision

Upon careful consideration, we find that Crystal Link lacks the appropriate managerial capability and financial resources (unpaid RAFs), as required by Section 364.337(1), Florida Statutes, to provide CLEC services. Therefore, based on the lack of managerial capability that has been displayed in the past by companies that Crystal Link's current Secretary operated and Crystal Link's inability to accurately complete the CLEC application, we find it appropriate to deny Crystal Link Communications' application for authority to provide competitive local exchange telecommunications services within Florida.

Based on the foregoing, it is

ORDERED that Crystal Link Communications, Inc.'s application for authority to provide competitive local exchange telecommunications services within Florida is denied. 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 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, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 6th day of April, 2010.



ANN COLE
Commission Clerk

(S E A L)

TJB

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 April 27, 2010.

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.