

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of merger of Cox Communications Pensacola, Inc. (holder of AAV Certificate No. 4034) and Coxcom, Inc. (holder of AAV Certificate No. 4036) into one company, cancellation of AAV Certificate No. 4034; change of name of Coxcom, Inc. to Cox Florida Telcom, L.P. d/b/a Cox Communications; and provision of written notice, pursuant to Section 364.337(6)(b), F.S., of intent to provide alternative local exchange telecommunications service under AAV Certificate No. 4036.

DOCKET NO. 980476-TA  
ORDER NO. PSC-98-0718-FOF-TA  
ISSUED: May 22, 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 APPROVING MERGER; CANCELLATION OF ALTERNATIVE  
ACCESS VENDOR CERTIFICATE; NAME CHANGE ALTERNATIVE  
ACCESS VENDOR CERTIFICATE; AND GRANTING AUTHORITY TO  
PROVIDE ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS  
SERVICES UNDER ALTERNATIVE ACCESS VENDOR 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.

DOCUMENT NUMBER-DATE

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FPSG-RECORDS/REPORTING

Pursuant to Section 364.33, Florida Statutes, a person may not acquire ownership or control of any telecommunications facility, or any extension thereof for the purpose of providing telecommunications services to the public, including the acquisition, transfer, or assignment of majority organizational control or controlling stock ownership, without prior approval from this Commission.

Cox Communications Pensacola, Inc. (Cox Communications) is the holder of Alternative Access Vendor (AAV) Certificate No. 4034. Coxcom, Inc. (Coxcom) is the holder of AAV Certificate No. 4036. By letter dated April 1, 1998, Cox Communications and Coxcom jointly requested approval of several transactions. The companies have requested approval of:

- (1) merger of Cox Communications and Coxcom into one company;
- (2) cancellation of Cox Communications' AAV Certificate No. 4034;
- (3) name change on AAV Certificate No. 4036 from Coxcom, Inc. to Cox Florida Telcom, L.P. d/b/a Cox Communications; and
- (4) notice of intent to provide alternative local exchange telecommunications (ALEC) service under AAV Certificate No. 4036, in accordance with 364.337 (6)(b), Florida Statutes.

#### Merger of Cox Communications and Coxcom

We determine that Cox Communications and Coxcom have met the requirements of Section 364.33, Florida Statutes. Accordingly, we find that the merger is in the public interest, and we approve it pursuant to Section 364.33, Florida Statutes.

#### Cancellation of Cox Communications' AAV Certificate No. 4034

Cox Communications has complied with the provision of Rule 25-24.735(2), Florida Administrative Code, by providing adequate notice in writing of its request for cancellation of its AAV certificate and by submitting its regulatory assessment fees for 1997. Accordingly, we find it appropriate to cancel AAV Certificate No. 4034, effective April 1, 1998.

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Cox Communications shall return its certificate to this Commission. In addition, under Section 364.336, Florida Statutes, certificate holders must pay a minimum annual regulatory assessment fee of \$50 if the certificate was active during any portion of the calendar year. A Regulatory Assessment Fee Return notice for 1998 will be mailed to Cox Communications. Neither the cancellation of its certificate nor the failure to receive a Regulatory Assessment Fee Return notice for 1998 shall relieve Cox Communications from its obligation to pay due and owing regulatory assessment fees.

Name Change on AAV Certificate No. 4036 From Coxcom, Inc. to Cox Florida Telcom, L.P. d/b/a Cox Communications

Upon review of the Department of State, Division of Corporations' records, it appears that Coxcom has properly registered the new corporate name, Cox Florida Telcom, L.P. d/b/a Cox Communications. Accordingly, we find it appropriate to amend Certificate No. 4036 to reflect the new operating name.

This Order will serve as the amended AAV Certificate of Public Convenience and Necessity No. 4036 for Cox Florida Telcom, L.P. d/b/a Cox Communications. Cox Florida Telcom, L.P. d/b/a Cox Communications should retain this Order as evidence of the name change.

Notice of Intent to Provide Alternative Local Exchange Telecommunications (ALEC) Service under AAV Certificate No. 4036 in accordance with 364.337 (6)(B), Florida Statutes

Having considered the notice of intent, we acknowledge its authority to provide ALEC services under its Certificate No. 4036, in accordance with 364.337(6)(b), Florida Statutes.

AAV services providers are subject to Chapter 25-24, Florida Administrative Code, Part XIV, Rules Governing Alternative Access Vendor Services, as well as the terms and conditions of Order No. 24877, issued August 2, 1991.

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ALEC providers are subject to Chapter 25-24, Florida Administrative Code, Part XV, Rules Governing Telecommunications Service Provided by Alternative Local Exchange Companies. ALECs are also required to comply with all applicable provisions of Chapter 364, Florida Statutes, and Chapters 25-4, Florida Administrative Code.

In addition, Section 364.337(2), Florida Statutes, requires ALECs that provide basic local telecommunications service to provide access to 911 services. ALECs that provide basic local telecommunications services must provide at least the same level of 911 services as that provided by the Incumbent Local Exchange Company (ILEC) serving the same area.

If this Order becomes final and effective, it shall serve as Cox Florida Telcom, L.P. d/b/a Cox Communications's ALEC certificate. Cox Florida Telcom, L.P. d/b/a Cox Communications should, therefore, retain this Order as proof of authority to provide ALEC services under AAV Certificate No. 4036.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the merger of Cox Communications Pensacola, Inc. and Coxcom is hereby approved. It is further

ORDERED that Cox Communications Pensacola, Inc.'s Certificate No. 4034 to provide alternative access vendor services is hereby canceled. It is further

ORDERED that Cox Communications Pensacola, Inc. shall return its certificate to this Commission and remit all due and owing regulatory assessment fees for 1998. It is further

ORDERED that the request by Coxcom, Inc. to change the name on Certificate No. 4034 from Coxcom, Inc. to Cox Florida Telcom, L.P. d/b/a Cox Communications is hereby approved. It is further

ORDERED that this Order will serve as Cox Florida Telcom, L.P. d/b/a Cox Communications's amended certificate and that this Order should be retained as evidence of the name change. It is further

ORDERED that Cox Florida Telcom, L.P. d/b/a Cox Communications is hereby granted authority under Certificate No. 4036 to provide

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Alternative Local Exchange Carrier services, subject to the terms and conditions specified in the body of this Order. It is further

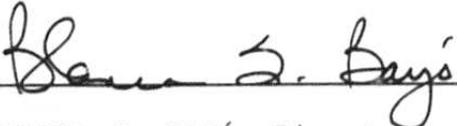
ORDERED that this Order shall serve as Cox Florida Telcom, L.P. d/b/a Cox Communications's certificate to provide Alternative Access Vendor and Alternative Local Exchange Carrier services. Cox Florida Telcom, L.P. d/b/a Cox Communications should retain this Order as proof of its certification. It is further

ORDERED that, as an alternative local exchange company which provides basic local telecommunications services, Cox Florida Telcom, L.P. d/b/a Cox Communications shall provide at least the same level of 911 services as that provided by the Incumbent Local Exchange Company serving the same area. 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.

By ORDER of the Florida Public Service Commission this 22nd day of May, 1998.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( 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 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 June 12, 1998.

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.