

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for ) DOCKET NO. 961298-TI  
acknowledgement of merger of ) ORDER NO. PSC-96-1560-FOF-TI  
Amerifax, Inc. d/b/a AFAX into ) ISSUED: December 23, 1996  
Phoenix Network, Inc./Phoenix )  
Network, Inc. d/b/a Office Depot )  
Communications, and cancellation )  
of Interexchange )  
Telecommunications Certificate )  
No. 2651 held by Amerifax, Inc. )  
d/b/a AFAX. )  
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The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER  
APPROVING MERGER AND CANCELLING  
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.

On October 29, 1996, AMERIFAX, INC. d/b/a AFAX and PHOENIX NETWORK, INC./PHOENIX NETWORK, INC. d/b/a OFFICE DEPOT COMMUNICATIONS filed an application for approval to merge AMERIFAX, INC. d/b/a AFAX into PHOENIX NETWORK, INC./PHOENIX NETWORK, INC. d/b/a OFFICE DEPOT COMMUNICATIONS. By Order No. 24222, issued April 2, 1991, AMERIFAX, INC. d/b/a AFAX was granted authority to provide interexchange telecommunications services in Florida. By Order No. 23604, issued October 11, 1990, PHOENIX NETWORK, INC. was granted authority to provide interexchange telecommunications services in Florida.

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FPSC-RECORDS/REPORTING

Pursuant to a merger agreement between Phoenix Network, Inc. (Phoenix), Phoenix Merger Corp., a wholly owned subsidiary of Phoenix, and Amerifax d/b/a AFAX (Amerifax), Phoenix Merger Corp. will merge into Amerifax, and Amerifax will become a wholly owned subsidiary of Phoenix. Consequently, Amerifax requests that the Commission cancel its Certificate of Public Convenience and Necessity. Phoenix Network, Inc. will adopt Amerifax's existing tariff in its entirety.

Upon review of the application, we find that the proposed merger is in the public interest. Combining operations should enable the merged firm to realize significant economies of scale, and thereby operate more efficiently. In addition, the merger should reduce customer confusion stemming from redundant operations.

AMERIFAX, INC. d/b/a AFAX 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 will be mailed to AMERIFAX, INC. d/b/a AFAX; however, neither the cancellation of its certificate nor the failure to receive a Regulatory Assessment Fee Return notice shall relieve AMERIFAX, INC. d/b/a AFAX from its obligation to pay due and owing regulatory assessment fees.

Based on the foregoing, it is,

ORDERED by the Florida Public Service Commission that the application to merge AMERIFAX, INC. d/b/a AFAX into PHOENIX NETWORK, INC./PHOENIX NETWORK, INC. d/b/a OFFICE DEPOT COMMUNICATIONS is hereby approved. It is further

ORDERED by the Florida Public Service Commission that the Interexchange Telecommunications Certificate No. 2651 held by AMERIFAX, INC. d/b/a AFAX is cancelled. It is further

ORDERED that AMERIFAX, INC. d/b/a AFAX shall return its certificate to this Commission and remit all due and owing regulatory assessment fees. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this Order shall become final and effective and these dockets shall be closed.

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ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 23rd day of December, 1996.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

KMP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

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 January 13, 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. 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.