

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation by Florida
Public Service Commission of Certificate of
Necessity No. 8164, issued to Astro Tel, Inc.,
effective March 27, 2013.

DOCKET NO. 130066-TX
ORDER NO. PSC-13-0208-PAA-TX
ISSUED: May 22, 2013

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman
LISA POLAK EDGAR
ART GRAHAM
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING CANCELLATION OF LOCAL EXCHANGE CERTIFICATE
DUE TO BANKRUPTCY

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 (F.A.C.).

Astro Tel, Inc. (Astro Tel) currently holds local exchange telecommunications company Certificate No. 8164, issued on August 20, 2002.

On March 27, 2013, this Commission received a letter dated March 25, 2013, from the Company President, Mike Ray, stating that Astro Tel does not currently serve customers in Florida and requested cancellation of the company's certificate. Astro Tel filed for Chapter 11 bankruptcy protection in the United States Bankruptcy Court for the Middle District of Florida, on December 16, 2010, as documented in Bankruptcy Case Number 8:10-bk-29992 MGW. Astro Tel's operating assets were sold to Birch Communications, Inc., holder of local exchange service company Certificate No. 7130, on April 11, 2012, in accordance with an order issued by United States Bankruptcy Court Judge Michael G. Williamson.

In Astro Tel's March 25, 2013 letter, Mr. Ray requested a bankruptcy cancellation of the local exchange certificate because the company no longer has funds available to pay the Regulatory Assessment Fees (RAF) for 2012 or 2013.

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Astro Tel filed for bankruptcy, and pursuant to 11 U.S.C. § 362 (a) (1) and (a) (2) of the US Bankruptcy Code, the filing of a petition for bankruptcy relief acts as an administrative action or proceeding against the debtor that was or could have commenced before the bankruptcy case or to enforce a judgment obtained before the bankruptcy case against the debtor. Additionally, in any bankruptcy liquidation or reorganization, secured creditors are given the highest priority in the distribution and, normally, receive all of the distributed assets. RAFs, late payment charges, and penalties owed by a company to the Florida Public Service Commission, as well as monetary settlements of cases resolving issues of failure to pay such fees, are not secured debts and, as a practical matter, are uncollectible in a bankruptcy proceeding where liquidation occurs. Therefore, this Commission would be prevented from collecting the RAFs owed by this company, and from assessing and collecting a penalty for failure to pay the fees. Astro Tel owes the 2012 Regulatory Assessment Fee (RAF), plus the statutory late payment charges and the 2013 RAF, for Certificate No. 8164.

We are vested with jurisdiction over this matter pursuant to Chapter 364, F.S., and Section 350.113, F.S. Pursuant to Section 364.336, F.S., telecommunications companies must pay a minimum annual RAF if the certificate was active during any portion of the calendar year and provides for late payment charges as outlined in Section 350.113, F.S., for any delinquent amounts.

Accordingly, we hereby find that Astro Tel's Certificate No. 8164, shall be cancelled due to bankruptcy, effective March 27, 2013. In addition, any unpaid RAFs shall be sent to the Florida Department of Financial Services to request permission for this Commission to write off the uncollectible amount.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Astro Tel, Inc.'s Certificate of Necessity No. 8164 to provide local exchange telecommunications service is hereby cancelled, effective March 27, 2013, due to bankruptcy. It is further

ORDERED that the outstanding RAFs, including accrued statutory late payment charges, shall be sent to the Department of Financial Services. The Division of Administrative and Information Technology Services shall request permission to write off the uncollectible amount. It is further

ORDERED that if Astro Tel, Inc.'s certificate is cancelled in accordance with this Order, it shall immediately cease and desist providing telecommunication services in Florida. 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, F.A.C., is received by the Office of 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 22nd day of May, 2013.



HONG WANG
Chief Deputy Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 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 June 12, 2013.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.