

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation
by Florida Public Service
Commission of Interexchange
Telecommunications Certificate
No. 7190 and Alternative Local
Exchange Telecommunications
Certificate No. 7189 issued to
PICUS Communications, LLC,
effective 10/12/01.

DOCKET NO. 011040-TP
ORDER NO. PSC-01-2415-PAA-TP
ISSUED: December 12, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CANCELLATION OF INTEREXCHANGE TELECOMMUNICATIONS
CERTIFICATE AND ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS
CERTIFICATE DUE TO CHAPTER 11 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.

PICUS Communications, LLC (PICUS) currently holds Certificate
of Public Convenience and Necessity No. 7190 authorizing the
provision of Interexchange Telecommunications service and
Certificate of Public Convenience and Necessity No. 7189
authorizing the provision of Alternative Local Exchange
Telecommunications service. Both certificates were issued by the

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FPSC-COMMISSION CLERK

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Commission on November 12, 1999. The Division of the Commission Clerk and Administrative Services advised our staff by memorandum that PICUS had not paid the 2000 Regulatory Assessment Fees (RAFs). Also, accrued statutory penalties and interest charges for late RAFs payments for the year 2000 had not been paid. PICUS was scheduled to remit its RAFs by January 30, 2001.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF of \$50 if the certificate was active 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 the type of service(s) for which the entities seek certification.

After this docket was established and our staff had written to PICUS, on August 27, 2001, we received notice that PICUS had filed for Chapter 11 bankruptcy protection. On October 12, 2001, we received a letter from PICUS which requested cancellation of its IXC and ALEC certificates and which advised that PICUS was no longer providing service.

Chapter 11 of Section 109 of the Federal Bankruptcy Code provides for reorganization by business entities. The filing of a bankruptcy petition under Chapter 11 invokes an automatic injunction known as the Automatic Stay, codified in Bankruptcy Code Section 362. Section 362(b)(5) provides that, for governments, the filing of the petition does not operate as a stay "of the enforcement of a judgment, other than a money judgment, obtained in an actual proceeding by a governmental unit to enforce such governmental unit's police or regulatory power." (emphasis added) Thus, it would appear that we are not enjoined from exercising our police powers to protect public health, safety and welfare, but are enjoined from exercising our regulatory authority seeking to collect a debt. However, in this case, the company has requested cancellation of its certificate. Under those circumstances, this Commission is free to do so. We note that the Division of the Commission Clerk and Administrative Services will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write-off the uncollectible amount should be requested.

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Accordingly, we find it appropriate to cancel Interexchange Telecommunications Certificate No. 7190 and Alternative Local Exchange Telecommunications Certificate No. 7189, effective October 12, 2001. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.335, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that PICUS Communications, LLC's Certificate No. 7190 to provide Interexchange Telecommunications services is hereby canceled, effective October 12, 2001. It is further

ORDERED that PICUS Communications, LLC's Certificate No. 7189 to provide Alternative Local Exchange Telecommunications services is hereby canceled, effective October 12, 2001. It is further

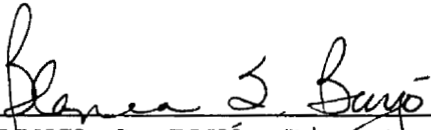
ORDERED that the Regulatory Assessment Fees for the years 2000 and 2001 should not be sent to the Comptroller's Office for collection. The Division of the Commission Clerk and Administrative Services, instead, shall request for permission to write-off the uncollectible amount. It is further

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 Director, Division of the Commission Clerk and Administrative Services, 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.

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By ORDER of the Florida Public Service Commission this 12th
day of December, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

KMP

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 Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 2, 2002.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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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.