

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Cancellation of tariff and removal from register by Florida Public Service Commission of IXC Registration No. TJ292 issued to TransNet Connect, Inc. for violation of Section 364.336, Florida Statutes.

DOCKET NO. 030772-TI
ORDER NO. PSC-04-0825-PAA-TI
ISSUED: August 23, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CANCELLATION OF TARIFF

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 April 28, 2003, our staff wrote TransNet Connect, Inc. a letter and explained that the 2002 Regulatory Assessment Fee (RAF) had not been paid and requested the fee be paid to avoid an enforcement docket from being established. On July 10, 2003, our staff called the company and spoke to the owner, Mr. Stan Crews, who advised that the company is out of business and no longer needs its certificate. Mr. Crews asked our staff to e-mail him the information required to cancel the company's certificate. Our staff e-mailed Mr. Crews the same day. No response was received; therefore, Docket No. 030772-TI was established. On October 13, 2003, our staff received notice that TransNet Connect, Inc. had filed for Chapter 7 bankruptcy protection on October 1, 2003. Our staff wrote and called the bankruptcy trustee, Ms. Shari Jansen, and asked that a letter be sent to the Commission requesting cancellation due to bankruptcy. On April 1, 2004, our staff was told by Ms. Jansen's office that Ms. Jansen had been dismissed of her duties as trustee on November 6, 2003, because this was a "no assets" case. Our staff also attempted to get the company's bankruptcy attorney to write a letter requesting cancellation without success.

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The current attorney's office advised our staff that since this bankruptcy case is closed, it is unlikely that the attorney could make a request for cancellation in writing. Although our staff has been unsuccessful in obtaining a written request for cancellation due to the bankruptcy, the company's owner verbally requested cancellation and subsequently filed for Chapter 7 bankruptcy. This Commission is vested with jurisdiction over this matter pursuant to Sections 364.02, 364.336, and 364.285, Florida Statutes.

Interexchange companies are subject to Section 364.336, Florida Statutes, which requires payment of Regulatory Assessment Fees by January 30 of the subsequent year for telecommunications companies, and Section 364.285, Florida Statutes, which authorizes this Commission to impose penalties for failure to comply with a lawful rule or order of this Commission or any provision of Chapter 364, Florida Statutes, including the failure to pay RAFs.

In this case, however, the company has filed for bankruptcy, and pursuant to Section 362(b)(4) of the Bankruptcy Code, the filing of a petition for bankruptcy relief acts as an automatic stay that enjoins a governmental entity from exercising its regulatory authority to collect a pre-petition debt. 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. We note that in this case there are no assets. Regulatory Assessment Fees, interest, and penalties owed by a company to the Florida Public Service Commission are not secured debts and, as a practical matter, are uncollectible in a bankruptcy proceeding where liquidation occurs. As such, 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 RAFs.

Accordingly, we find that the company shall be granted the verbally requested cancellation of its tariff, that it be removed from the Commission's IXC register, and that any unpaid RAFs be written-off as uncollectible. In addition, the company shall immediately cease and desist providing interexchange telecommunications services in Florida, if it has not already done so.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TransNet Connect Inc.'s IXC tariff is hereby cancelled, the company shall be removed from the IXC register, and the company shall immediately cease and desist providing IXC services in Florida. It is further

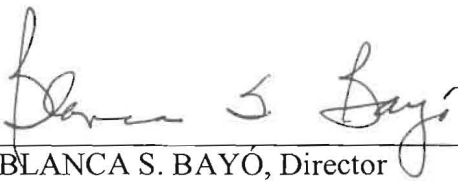
ORDERED that the outstanding Regulatory Assessment Fees should not be sent to the Department of Financial Services for collection. The Division of the Commission Clerk and Administrative Services, instead, shall request for permission to write-off the uncollectible amount. It is further

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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.

By ORDER of the Florida Public Service Commission this 23rd day of August, 2004.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(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 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.

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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 September 13, 2004.

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.