

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of Pay
Telephone Certificate No. 5012
issued to Crescent Public
Communications, Inc. for
violation of Rule No. 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 000999-TC
ORDER NO. PSC-01-0852-FOF-TC
ISSUED: April 2, 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

ORDER VACATING ORDER NO. PSC-00-1795-PAA-TC

BY THE COMMISSION:

On October 2, 2000 we issued Order No. PSC-00-1795-PAA-TC, which imposed a \$500 fine or cancelled Certificate No. 5012, issued to Crescent Public Communications, Inc. (Crescent) for failure to pay Regulatory Assessment Fees (RAFs). Crescent had not paid the 1999 RAF nor the statutory penalty and interest charges for the years 1998 and 1999. It has, however, come to our attention that the company had filed for bankruptcy protection prior to the issuance of the Proposed Agency Action Order.

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 a petition does not operate as a stay "of the enforcement of a judgment, other than a money judgment, obtained in an actual

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-01-0852-FOF-TC
DOCKET NO. 000999-TC
PAGE 2

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 or engage in other economic regulation. It appears clear, however, that regulatory fees and penalties already accrued by the company are not extinguished by a Chapter 11 proceeding. If the company emerges from Chapter 11, the state could, at that time, again pursue collection.

Therefore, we hereby vacate Order No. PSC-00-1795-PAA-TC, in which Crescent Public Communications, Inc. was fined \$500. In addition, the Division of Administration should not forward the outstanding RAFs to the Comptroller's Office for collection at this time.

We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.3375, Florida Statutes.

Based on the foregoing, it is

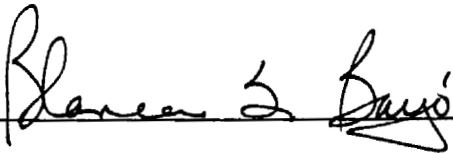
ORDERED by the Florida Public Service Commission that Order No. PSC-00-0421-PAA-TP is hereby vacated. It is further

ORDERED that further collection efforts should not be undertaken at this time. It is further

ORDERED that this docket is closed

ORDER NO. PSC-01-0852-FOF-TC
DOCKET NO. 000999-TC
PAGE 3

By ORDER of the Florida Public Service Commission this 2nd
day of April, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JAE

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director,

ORDER NO. PSC-01-0852-FOF-TC
DOCKET NO. 000999-TC
PAGE 4

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 after the issuance 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.