

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation  
by Florida Public Service  
Commission of IXC Certificate  
No. 7203 and ALEC Certificate  
No. 7204 issued to @link  
Networks, Inc., effective  
5/8/01.

DOCKET NO. 010765-TP  
ORDER NO. PSC-01-2183-PAA-TP  
ISSUED: November 6, 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  
AND ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS  
CERTIFICATES 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.

@link Networks, Inc. (@link Networks) currently holds Certificates of Public Convenience and Necessity Nos. 7203 and 7204, issued by the Commission on November 12, 1999, authorizing the provision of Interexchange Telecommunications (IXC) and Alternative Local Exchange Telecommunications (ALEC) service respectively. The Division of the Commission Clerk and Administrative Services advised our staff by memorandum that @link Networks 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. @link Networks was scheduled to remit its RAFs by January 30, 2001.

DOCUMENT NUMBER-DATE

14015 NOV-01

FPSC-COMMISSION CLERK

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 IXC and ALEC service.

On May 8, 2001, the Commission received notice that @link Networks, Inc. had filed for Chapter 11 bankruptcy protection on April 25, 2001. On May 14, 2001 the Commission received a letter dated May 7, 2001 from Mr. Alexander Good, Chairman and CEO, which requested permission to maintain its operating authority although it had begun notifying its customers that service would be discontinued. Mr. Good stated that the notice to customers provided information on other telecommunications providers.

On May 15, 2001, the Commission received a letter dated May 9, 2001 from Mr. Good, which stated that @link Networks had been unable to obtain additional financing and that under the circumstances, it had ceased doing business and that the company's assets would be liquidated. Mr. Good requested that the Commission terminate any operating authority previously granted.

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

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for collection, but that permission for the Commission to write-off the uncollectible amount should be requested.

Accordingly, we find it appropriate to cancel IXC Certificate No. 7203 and ALEC Certificate No. 7204, effective May 8, 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 @link Networks, Inc.'s Certificate Nos. 7203 and 7204 to provide Interexchange Telecommunications and Alternative Local Exchange Telecommunications services are hereby canceled, effective May 8, 2001. It is further

ORDERED that the outstanding Regulatory Assessment Fees 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 6th Day  
of November, 2001.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( 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 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

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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 November 27, 2001.

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 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.