

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 3505 issued to
XO Florida, Inc. for violation
of Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 011014-TI
ORDER NO. PSC-02-0708-AS-TI
ISSUED: May 24, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

XO Florida, Inc. (XO) currently holds Certificate of Public
Convenience and Necessity No. 3505, issued by the Commission on
June 13, 1998, authorizing the provision of Interexchange
Telecommunications service. The Division of the Commission Clerk
and Administrative Services advised our staff that XO had not paid
the Regulatory Assessment Fees (RAFs) required by Section 364.336,
Florida Statutes, and Rule 25-4.0161, Florida Administrative Code,
for the year 2000. Also, accrued statutory penalties and interest
charges for late RAFs payments for the year 2000 had not been paid.
XO 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. Pursuant to Section 350.113(4), Florida
Statutes, the RAFs forms, for the period of January 1 through

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December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for certification receive a copy of our rules governing Interexchange Telecommunications service.

However, after the docket was established, XO contacted our staff and advised that the company's 2000 revenues were included on its Alternative Local Exchange Telecommunications (ALEC) form. The company subsequently completed the Interexchange Telecommunications (IXC) 2000 RAF return and remitted payment for the minimum, including penalty and interest pending the outcome of an audit by our Division of Auditing and Safety. Subsequently, the Division of Auditing and Safety completed an audit of the company's 1999 and 2000 RAF returns for both its ALEC and IXC Certificates. According to the audit report, the company could not provide support for the numbers used for the amounts paid to other carriers; therefore, no deduction was allowed. Our staff billed the company an additional \$22,533.92, including interest charges, which has now been paid in full by XO.

On April 30, 2002, we received a letter from Ms. Dana Shaffer, Vice President/Regulatory Counsel for XO. Ms. Shaffer stated that the company's IXC revenues were included on its ALEC 2000 RAF return and that as soon as they were made aware that a RAF return had to be filed for each certificate, the company filed the IXC 2000 RAF return showing no revenues, pending the completion of our audit. After the completion of the audit and a subsequent bill from the Commission for the additional amount due was received, Ms. Shaffer advised that the company paid the additional charges. Ms. Shaffer further advised that the company would work with our staff to see that future RAF payments are both timely and accurately filed for each certificate and requested that no further monetary penalty be assessed.

Due to the extenuating circumstances, we believe that XO should be allowed to comply with Commission rules and that it would serve no purpose to fine XO. Accordingly, we hereby accept the terms of XO's settlement agreement. We are vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that XO Florida, Inc.'s settlement proposal summarized in the body of this Order is hereby approved. It is further

ORDERED that this Docket is closed.

By ORDER of the Florida Public Service Commission this 24th Day of May, 2002.

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 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.

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