

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation  
by the Florida Public Service  
Commission of IXC Certificate  
No. 3989 and ALEC Certificate  
No. 5187 issued to Easton  
Telecom Services, Inc.,  
effective 4/22/02.

DOCKET NO. 020356-TP  
ORDER NO. PSC-02-0717-PAA-TP  
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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING CANCELLATION OF INTEREXCHANGE AND ALTERNATIVE  
LOCAL EXCHANGE 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.

Easton Telecom Services, Inc. (Easton) currently holds  
Certificate of Public Convenience and Necessity No. 3989, issued by  
the Commission on May 1, 1995, authorizing the provision of  
interexchange (IXC) service. In addition, Easton holds Certificate  
of Public Convenience and Necessity No. 5187, issued by the  
Commission on July 25, 1997, authorizing the provision of  
alternative local exchange (ALEC) service. The Division of the  
Commission Clerk and Administrative Services advised our staff that  
Easton had not paid the 2002 Regulatory Assessment Fees (RAFs) for

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both the ALEC and IXC certificates. Also, accrued statutory penalties and interest charges for late RAFs payments for the year(s) 1997 and 2000 had not been paid for the IXC certificate.

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 ALEC and IXC service.

We received notice that this company had filed for Chapter 11 bankruptcy protection. In addition, we received a letter from the company requesting cancellation of its certificates and asking that any unpaid Regulatory Assessment Fees be written off as no funds exist.

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.

Accordingly, we find it appropriate to cancel IXC Certificate No. 3989, effective April 22, 2002. We also find it appropriate to cancel ALEC certificate No. 5187, effective April 22, 2002. If Easton's certificate is canceled in accordance with this Order,

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Easton shall immediately cease and desist providing ALEC and IXC services in Florida. 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 Easton Telecom Services, Inc.'s Certificate No. 3989 to provide interexchange services is hereby canceled, effective April 22, 2002. It is further

ORDERED by the Florida Public Service Commission that Easton Telecom Services, Inc.'s Certificate No. 5187 to provide alternative local exchange services is hereby cancelled, effective April 22, 2002. 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 if Easton Telecom Services, Inc.'s Certificate No. 3989 is canceled in accordance with this Order, that entity shall immediately cease and desist providing interexchange services in Florida. It is further

ORDERED that if Easton Telecom Services, Inc.'s Certificate No. 5187 is canceled in accordance with this Order, that entity shall immediately cease and desist providing alternative local exchange services in Florida. 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

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ORDERED that in the event this Order becomes final, this docket shall be 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 )

LHD

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 June 14, 2002.

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.