

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation  
by Florida Public Service  
Commission of IXC Certificate  
No. 8046 and ALEC Certificate  
No. 8045 issued to Adelpia  
Business Solutions Investment  
East, LLC, effective 7/31/02.

DOCKET NO. 020881-TP

In re: Bankruptcy cancellation  
by Florida Public Service  
Commission of IXC Certificate  
No. 5268 and ALEC Certificate  
No. 5646 issued to NET-tel  
Corporation, effective 8/9/02.

DOCKET NO. 020894-TP

In re: Bankruptcy cancellation  
by Florida Public Service  
Commission of IXC Certificate  
No. 7474 and ALEC Certificate  
No. 7473 issued to ConnectSouth  
Communications of Florida, Inc.,  
effective 8/12/02.

DOCKET NO. 020895-TP  
ORDER NO. PSC-02-1539-PAA-TP  
ISSUED: November 12, 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 TELECOMMUNICATIONS  
AND ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS  
CERTIFICATES DUE TO CHAPTER 11 BANKRUPTCY

DOCUMENT NUMBER DATE

12323 NOV 12 02

FPSC-COMMISSION CLERK

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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.

The companies listed on Attachment A, which is incorporated herein by reference, have requested cancellation of their respective certificates and provided notice of Chapter 11 bankruptcy proceedings.

Rules 25-24.474 and 25-24.820, Florida Administrative Code, establish the requirements for cancellation of Interexchange Carrier (IXC) and Alternative Local Exchange (ALEC) certificates, respectively. However, 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 companies listed on Attachment A have requested cancellation of their respective certificates. Under those circumstances, this Commission is free to do so.

Rule 25-4.0161, Florida Administrative Code, incorporated by Rules 25-24.480 and 25-24.835, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of Regulatory Assessment Fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

We received notice that each of the companies listed on Attachment A had filed for Chapter 11 bankruptcy protection. In addition, we received letters from each of the companies, which requested cancellation of their respective certificates and asked that any unpaid Regulatory Assessment Fees be written off as no funds exist.

Accordingly, we find it appropriate to grant each company listed on Attachment A a bankruptcy cancellation of their respective certificates with an effective date as listed on Attachment A. In addition, the Division of the Commission Clerk & Administrative Services will be notified that the unpaid Regulatory Assessment Fees, including statutory penalty and interest charges, 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. If the certificates for each company as listed on Attachment A are cancelled in accordance with this Order, the respective companies should be required to immediately cease and desist providing interexchange carrier and alternative local exchange telecommunications services in Florida.

We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes.

Based on the foregoing, it is,

ORDERED by the Florida Public Service Commission that the Interexchange Telecommunications and Alternative Local Exchange Telecommunications certificates listed on Attachment A, which is incorporated herein by reference, are hereby canceled, effective on the dates as listed on Attachment A. 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 amounts. It is further

ORDERED that if an entity's certificate is canceled in accordance with this Order, that entity shall immediately cease and desist providing Interexchange Telecommunications and Alternative

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Local Exchange Telecommunications services in Florida. It is further

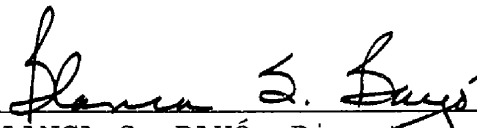
ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that, if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. 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, these dockets shall be closed.

By ORDER of the Florida Public Service Commission this 12th day of November, 2002.



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

( S E A L )

AJT

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 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 December 3, 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.

ATTACHMENT A

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES &amp; PERIOD COVERED</u>	<u>CERT NO.</u>	<u>EFFECTIVE DATE OF CANCELLATION</u>
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020881-TP	Adelphia Business Solutions Investment East, LLC	8046 (IXC)	07/31/02
		8045 (ALEC)	07/31/02

No Previous Returns Filed for either the IXC or ALEC certificates

RAF Years Requested to be Written-Off  
 2002 for both IXC and ALEC certificate

020894-TP	NET-tel Corporation	5268 (IXC)	08/09/02
		5646 (ALEC)	08/09/02

\$177,667 IXC Revenues for Period Ended 12/31/99  
 \$0 ALEC Revenues for Period Ended 12/31/99

RAF Years Requested to be Written-Off  
 2000, 2001, and 2002 for both IXC and ALEC certificates

Penalty and Interest Years Requested to be Written-Off  
 2000 and 2001 for both IXC and ALEC certificates

020895-TP	ConnectSouth Communications of Florida, Inc.	7474 (IXC)	08/12/02
		7473 (ALEC)	08/12/02

No Previous Returns Filed either the IXC or ALEC certificates

RAF Years Requested to be Written-Off  
 2000, 2001, and 2002 for both IXC and ALEC certificates

Penalty and Interest Years Requested to be Written-Off  
 2000 and 2001 for both IXC and ALEC certificates