

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
Alternative Local Exchange  
Telecommunications Certificate  
No. 7333 issued to Asset  
Channels-Telecom, Inc. for  
violation of Rules 25-4.0161,  
F.A.C., Regulatory Assessment  
Fees; Telecommunications  
Companies, and 25-24.835,  
F.A.C., Rules Incorporated.

DOCKET NO. 011277-TX  
ORDER NO. PSC-02-1609-FOF-TX  
ISSUED: November 20, 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 CLOSING DOCKET

BY THE COMMISSION:

Rule 25-4.0161, Florida Administrative Code, which implements  
Section 364.336, Florida Statutes, requires the payment of  
Regulatory Assessment Fees by January 30, or the next business day,  
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.

This docket was established for nonpayment of the 2000 RAF,  
plus statutory penalty and interest charges. Although the company  
had filed for Chapter 11 bankruptcy protection prior to this docket  
being opened, the Commission was not aware of the pending  
bankruptcy proceedings. The Chapter 11 case has subsequently been  
converted to a Chapter 7 case.

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On December 12, 2001, Order No. PSC-01-2412-PAA-TX was issued, which imposed a \$1,000 penalty or cancelled the company's certificate. On December 31, 2001, the Chapter 7 Trustee, Roberta Napolitano, protested the Order by petitioning for a hearing and providing proof of the bankruptcy proceedings. Ms. Napolitano withdrew the request for a hearing on April 2, 2002. This docket has been on monitor status since that time. On September 30, 2002, Ms. Napolitano advised our staff that there has been no change in the bankruptcy proceedings and that the company did not wish to cancel its certificate at this time.

Asset Channels-Telecom, Inc. has not paid the 2000 RAF, including statutory penalty and interest charges.

Chapter 7 of Section 109 of the Federal Bankruptcy Code provides for total liquidation of the business entity. The filing of a bankruptcy petition under Chapter 7 invokes an automatic injunction known as the Automatic Stay, codified in Bankruptcy Code Section 362. Upon such filing, an interim Trustee in Bankruptcy is immediately appointed who has the duty to collect and secure the non-exempt assets of the debtor and distribute them to creditors in the manner set forth in the Bankruptcy Code. Secured creditors are given the highest priority in the distribution and, normally, receive all of the distributed assets. Regulatory fees and penalties owed by a company to the Florida Public Service Commission are not secured debts and, as a practical matter, are uncollectible in a Chapter 7 proceeding. The Commission is prevented by the automatic stay provision of the Bankruptcy Code from taking action against this company for its failure to pay Regulatory Assessment Fees.

Therefore, we find that although the Commission was not aware of it, Asset Channels-Telecom, Inc. had filed for bankruptcy protection prior to the docket being established. Therefore, Order No. PSC-01-2412-PAA-TX, issued on December 12, 2001, shall not be reinstated and this docket shall be closed upon issuance of this Order.

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

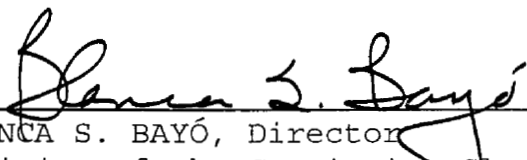
Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that Order No. PSC-01-2412-PAA-TX, issued on December 12, 2001, shall not be reinstated. It is further

ORDERED that this Docket is closed.

By ORDER of the Florida Public Service Commission this 20th day of November, 2002.

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

( S E A L )

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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 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

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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.