

BEFORE THE-FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation
by Florida Public Service
Commission, pursuant to request
by Alex F. Mattera, counsel to
the plan trustee of the debtor,
of IXC Registration No. TJ320
and CLEC Certificate No. 7342
issued to essential.com, inc.,
effective July 16, 2003.

DOCKET NO. 030674-TP
ORDER NO. PSC-03-1058-PAA-TP
ISSUED: September 23, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING CANCELLATION OF
IXC REGISTRATION AND CLEC CERTIFICATE ISSUED TO
ESSENTIAL.COM, INC., 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.

BACKGROUND

On February 17, 2000, Essential.Com, Inc. (Essential) obtained
Interexchange Carrier (IXC) Registration No. TJ320. On March 2,
2000, Essential obtained Competitive Local Exchange Company (CLEC)
Certificate No. 7342.

DOCUMENT NUMBER-DATE
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The company paid its 2000 Regulatory Assessment Fee (RAF) on February 27, 2001, and reported revenues in the amount of \$98,774 for the period ended December 31, 2000, for its IXC registration. Essential has not paid any RAF for its CLEC certificate. On August 3, 2001, we received notice that this company filed for Chapter 11 bankruptcy protection in the United States Bankruptcy Court District of Massachusetts (Eastern Division) (Case No. 01-15339-WCH).

On March 11, 2003, our staff received a note from Ms. Kathy Deschambault of United Systems Access Telecom, Inc. (United Systems). Ms. Deschambault advised that United Systems managed essential's accounts until United Systems was certificated in each state. However, she stated that essential no longer existed and requested that we remove United Systems' address as essential's address. Ms. Deschambault included a "Notice of entry of order confirming plan of liquidation dated November 2, 2001" and a copy of a letter advising Donald Swanson was designated by the Plan Trustee as the new liaison for essential.

On March 12, 2003, our staff wrote Mr. Swanson and asked him to request cancellation of essential's CLEC certificate and IXC registration if the company no longer existed. On March 27, 2003, our staff faxed a note to the company asking that it request cancellation of its CLEC certificate and IXC registration if it did not need them, and on July 14, 2003, our staff faxed a letter to the Plan Trustee's attorney, Mr. Alex Mattera, and asked if we could cancel the company's CLEC certificate and IXC registration due to the bankruptcy.

On July 16, 2003, Mr. Mattera called and stated that essential had filed for bankruptcy on June 29, 2001, has not had any customers since August 10, 2001, and has not done any business since. Mr. Mattera confirmed that the company no longer existed. Mr. Mattera subsequently e-mailed staff and requested cancellation of the company's CLEC certificate and IXC registration and asked that any unpaid RAFs be written-off. On July 25, 2003, we received a letter dated July 22, 2003 from Mr. Stephen J. Gilbert, President of United Systems Access Telecom, Inc. requesting cancellation of essential's CLEC certificate and IXC registration. As of this date, there are no outstanding consumer complaints against essential.

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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)(4) 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. 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 pre-petition debt. However, in this case, the bankruptcy plan trustee's attorney has requested cancellation of essential's IXC registration and CLEC certificate. Under those circumstances, this Commission is free to do so.

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. On August 3, 2001, however, Mr. Mattera requested cancellation of the company's IXC registration and CLEC certificate and asked that any unpaid Regulatory Assessment Fees be written-off.

Therefore, we find that we should grant the company a bankruptcy cancellation of its IXC Registration No. TJ320 and CLEC Certificate No. 7342 with an effective date of July 16, 2003. In addition, the 2001, 2002, and 2003 RAFs, including penalty and interest charges, for its IXC registration and the 2000, 2001, 2002, and 2003 RAFs, including penalty and interest charges, for its CLEC certificate, shall not be sent to the Florida Department of Financial Services for collection, and permission for us to write-off the uncollectible amount shall be requested. In addition, the company shall immediately cease and desist providing interexchange telecommunications and competitive local exchange services in Florida.

We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.335, Florida Statutes.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Essential.Com, Inc.'s Interexchange Carrier Registration No. TJ320 and Competitive Local Exchange Company Certificate No. 7342 are hereby canceled, effective July 16, 2003. 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 permission to write-off the uncollectible amount. It is further

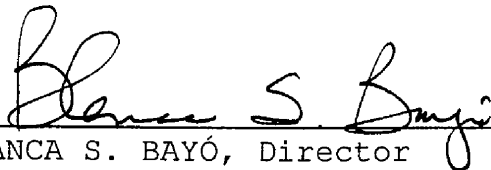
ORDERED that if Essential.Com, Inc.'s Interexchange Carrier Registration No. TJ320 and Competitive Local Exchange Company Certificate No. 7342 are canceled in accordance with this Order, that entity shall immediately cease and desist providing IXC and CLEC Telephone services in Florida. It is further

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

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 23rd
Day of September, 2003.



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 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

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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 October 14, 2003.

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.