

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Finding of insolvency  
cancellation by Florida Public  
Service Commission of IXC  
Registration No. TJ590 issued to  
VirtualCom, Inc. for violation  
of Section 364.336, Florida  
Statutes.

DOCKET NO. 031034-TI  
ORDER NO. PSC-04-0077-PAA-TI  
ISSUED: January 26, 2004

The following Commissioners participated in the disposition of  
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER  
CANCELING IXC REGISTRATION

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.

CASE BACKGROUND

On December 11, 2001, VirtualCom, Inc. (VirtualCom) obtained  
Florida Public Service Commission Interexchange Telecommunications  
Registration No. TJ590. On September 13, 2002, the Commission  
received the company's 2001 Regulatory Assessment Fee (RAF) return.  
On that return, the company reported no revenues for the period  
ended December 31, 2001.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

On December 12, 2002, our Division of the Commission Clerk & Administrative Services mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003, but was not received. Accordingly, on February 21, 2003, our Office of the General Counsel sent a delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service returned the unopened delinquent notice stamped "Moved, left no address."

On March 19, 2003, the Division of the Commission Clerk & Administrative Services noted that this company had not paid the 2002 RAF. On April 28, 2003, our staff wrote the company and explained that payment for the RAF needed to be made by May 19, 2003, to avoid an enforcement docket from being established.

On May 12, 2003, we received a letter dated May 8, 2003, from Mr. Steven Zuckerman of Michael Moecker & Associates, Inc., which enclosed a notice of "Assignment for the benefit of creditors." On May 30, 2003, our staff called Mr. Zuckerman, who stated that the company no longer operated and he would write a letter requesting cancellation of the company's tariff and removal from the register. That letter was received by us on November 7, 2003.

As of December 12, 2003, the past due RAF, including statutory late payment charges, had not been paid. There are no outstanding customer complaints pending.

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

#### DISCUSSION

Rule 25-4.0161, 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.

However, a finding of insolvency under Chapter 727, Florida Statutes, is the state equivalent of a finding of bankruptcy under Chapter 9 of the Federal Bankruptcy Code. It is a procedure for

ORDER NO. PSC-04-0077-PAA-TI  
DOCKET NO. 031034-TI  
PAGE 3

the administration and liquidation of insolvent estates, administered by the circuit courts of Florida. The statute provides only for liquidation and has no provision for efforts to reorganize and survive as is provided in Chapter 11 of the Federal Bankruptcy Code.

Accordingly, we grant the company a cancellation of its IXC Registration No. TJ590, with an effective date of November 7, 2003, based on the finding of insolvency. In addition, our Division of the Commission Clerk & Administrative Services is hereby notified that the 2002 and 2003 RAFs, including statutory penalty and interest charges for the year 2002, should not be sent to the Comptroller's Office for collection, but that permission for this Commission to write-off the uncollectible amount should be requested.

Based on the foregoing, it is

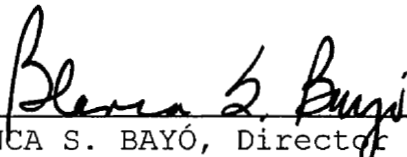
ORDERED by the Florida Public Service Commission that IXC Registration No. TJ590, issued to VirtualCom, Inc., is hereby canceled, effective as of November 7, 2003, as discussed in the body of this Order. It is further

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, this Docket shall be closed administratively.

ORDER NO. PSC-04-0077-PAA-TI  
DOCKET NO. 031034-TI  
PAGE 4

By ORDER of the Florida Public Service Commission this 26th  
Day of January, 2004.

  
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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 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

ORDER NO. PSC-04-0077-PAA-TI  
DOCKET NO. 031034-TI  
PAGE 5

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 February 16, 2004.

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.