

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Resort
Network Services LLC for apparent violation
of Section 364.336, Florida Statutes.

DOCKET NO. 040408-TI
ORDER NO. PSC-04-0695-PAA-TI
ISSUED: July 16, 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
IMPOSING INVOLUNTARY CANCELLATION OF IXC TARIFF AND DIRECTING
PAYMENT OF REGULATORY ASSESSMENT FEES

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.

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 late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts. On December 12, 2003, the Division of the Commission Clerk & Administrative Services mailed the 2003 Regulatory Assessment Fee return notice to Resort Network Services LLC. The return form and payment were due by January 30, 2004. On February 20, 2004, the Office of the General Counsel sent a delinquent notice via certified mail for nonpayment of the 2003 Regulatory Assessment Fee. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on March 1, 2004. On March 15, 2004, Commission staff received a letter from Mr. Peter Farrell, CEO, which advised the company ceased doing business in Florida at the end of 2003 and had no customers. Our staff wrote the company on March 16, 2004, and advised it to pay the 2003 and 2004 Regulatory Assessment Fees, plus late payment charges for the years 2002 and 2003. Failure to make payment is a violation of Section 364.336, Florida Statutes.

This Commission is vested with jurisdiction over these matters pursuant to Sections 364.285, 364.336, and 364.337, Florida Statutes. Pursuant to Section 364.336, Florida Statutes,

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cancellation of an entity's tariff and removal from the register does not relieve the company's obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the registration was active during any portion of the calendar year, including the cancellation year. Therefore, we find that, this Commission shall not grant Resort Network Services LLC cancellation of its tariff and voluntary removal from the register. In the alternative, this Commission shall cancel Resort Network Services LLC's tariff and remove it from the register on our own motion with an effective date of March 15, 2004.

This Order will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by this Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute shall be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts shall be deemed admitted and the right to a hearing waived. If the company fails to pay the Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, that company's tariff shall be cancelled, its name removed from the register administratively, and the collection of the past due fees shall be referred to the Department of Financial Services for further collection efforts. If the company's tariff is cancelled and its name removed from the register in accordance with this Commission's Order from this recommendation, Resort Network Services LLC shall be required to immediately cease and desist providing intrastate interexchange services in Florida. If the company has its tariff cancelled and name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange company, Resort Network Services LLC shall be required to first pay any outstanding Regulatory Assessment Fees, including statutory late payment charges.

It is therefore

ORDERED by the Florida Public Service Commission that Resort Network Services LLC shall hereby pay its 2003 and 2004 Regulatory Assessment Fees, plus late payment charges for the years 2002 and 2003. 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 should Resort Network Services LLC fail to timely protest this Order, the facts shall be deemed admitted, the right to a hearing waived. It is further

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ORDERED that any protest must identify with specificity the issues in dispute. In accordance with Section 120.80(13)(b), Florida Statutes, issues not in dispute will be deemed stipulated. It is further

ORDERED that should Resort Network Services LLC fail to timely protest this Order, payment of the 2003 and 2004 Regulatory Assessment Fees, plus late payment charges for the years 2002 and 2003 must be received within fourteen calendar days after the issuance of the Consummating Order. It is further

ORDERED that if this Order is not protested and the RAFS and late payment charges are not received within fourteen calendar days of the issuance of the Consummating Order, the amount shall be referred to the Department of Financial Services for further collection efforts and the company shall be required to cease and desist providing intrastate interexchange telecommunications services in Florida. It is further

ORDERED that if this Order is not timely protested, this Docket shall be closed administratively upon: 1) receipt of the company's payment of 2003 and 2004 Regulatory Assessment Fees, plus late payment charges for the years 2002 and 2003; or 2) referral of the amount to the Department of Financial Services for further collection efforts; and 3) cancellation of the company's tariff, and removal of its name from the register

By ORDER of the Florida Public Service Commission this 16th day of July, 2004.


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

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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 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 August 6, 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.