

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation by Florida Public Service Commission of IXC Registration No. TI258 issued to Inacom Communications, Inc., effective July 27, 2004.	DOCKET NO. 040791-TI ORDER NO. PSC-04-0937-PAA-TI ISSUED: September 23, 2004
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The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING CANCELLATION OF INTEREXCHANGE TELECOMMUNICATIONS
REGISTRATION 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.

Inacom Communications, Inc. (Inacom) currently holds Interexchange Telecommunication Company (IXC) Registration No. TI258, issued by the Commission on December 1, 1994, authorizing the provision of Interexchange Telecommunication service.

Pursuant to Section 364.336, Florida Statutes, registered IXCs must pay a minimum annual RAF of \$50 if the registration was active during any portion of the calendar year. Pursuant to Rule 25-4.0161 (2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. All entities that file an IXC registration receive a copy of our rules detailing Interexchange Telecommunications carrier's obligations as providers of long distance services in Florida.

The Commission received notice that this company had filed for Chapter 11 bankruptcy protection. The Commission also received a letter from the company, which advised that it had no customers and that it was requesting cancellation of its tariff and removal from the register. The company further requested that any unpaid Regulatory Assessment Fees (RAFs) be written-

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off as no funds exist. The Commission is vested with jurisdiction over this matter pursuant to Sections 364.02, 364.336, and 364.285, Florida Statutes.

Although interexchange telecommunications companies are excluded from the definition of "telecommunications company," Section 364.02(13), Florida Statutes, provides that they remain subject to Section 364.336, Florida Statutes, which requires payment of Regulatory Assessment Fees by January 30 of the subsequent year for telecommunications companies, and Section 364.285, Florida Statutes, which authorizes the Commission to impose penalties for failure to comply with a lawful rule or order of the Commission or any provision of Chapter 364, Florida Statutes, including the failure to pay RAFs.

In this case, however, the company has filed for bankruptcy, and pursuant to Section 362(b)(4) of the Bankruptcy Code, the filing of a petition for bankruptcy relief acts as an automatic stay that enjoins a governmental entity from exercising its regulatory authority to collect a pre-petition debt. Additionally, in any bankruptcy liquidation or reorganization, secured creditors are given the highest priority in the distribution and, normally, receive all of the distributed assets. Regulatory Assessment Fees, interest, 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 bankruptcy proceeding where liquidation occurs. As such, the Commission would be prevented from collecting the RAFs owed by this company, and from assessing and collecting a penalty for failure to pay the RAFs. However, in this case, the company has requested cancellation of its certificate. Under such circumstances, this Commission is free to do so. We note that the Division of the Commission Clerk and Administrative Services will be notified that the past due RAFs 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.

Accordingly, we find it appropriate to cancel Interexchange Telecommunications Registration No. TI258, effective July 27, 2004. If Inacom's registration is canceled in accordance with this Order, Inacom shall immediately cease and desist providing Interexchange Telecommunications services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.335, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Inacom Communications, Inc.'s Registration No. TI258 to provide Interexchange Telecommunications services is hereby canceled, effective July 27, 2004. 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 amount. It is further

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ORDERED that if Inacom Communications, Inc.'s Registration No. TI258 is canceled in accordance with this Order, that entity shall immediately cease and desist providing Interexchange Telecommunications services in Florida. It is further

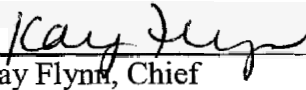
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission 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.

By ORDER of the Florida Public Service Commission this 23rd day of September, 2004.

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

By:



Kay Flynn, Chief
Bureau of Records

(SEAL)

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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 October 14, 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.