

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings
against Preferred Carrier Services, Inc. d/b/a
Telefonos Para Todos and d/b/a Phones For
ALL for violation of Rule 25-4.118, F.A.C.,
Interexchange Carrier Selection.

DOCKET NO. 971485-TI
ORDER NO. PSC-04-0958-FOF-TI
ISSUED: October 1, 2004

The following Commissioners participated in the disposition of this matter:

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

ORDER DIRECTING THAT PERMISSION BE SOUGHT
TO WRITE OFF MONIES OWED

BY THE COMMISSION:

On December 7, 1998, we issued Order No. PSC-98-1627-AS-TI approving Preferred Carrier Services, Inc.'s (PCS) offer of settlement to resolve the company's apparent violation of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection (slamming). PCS's settlement offer included a voluntary contribution of \$50,000 to the General Revenue Fund. The company proposed to pay the \$50,000 in five equal payments of \$10,000. The company paid the first four installments for a total of \$40,000. The last installment of \$10,000 was due on December 1, 1999. The last installment was not paid because Preferred Carrier Services, Inc. filed for Chapter 11 bankruptcy protection in the US Bankruptcy Court - Northern District of Texas on September 18, 1999, Case No. 99-38082.

In that proceeding, PCS listed the State of Florida (Florida Public Service Commission) as a claimant for the \$10,000 balance owed in Docket 971485-TI when it filed for bankruptcy with the US Bankruptcy Court - Northern District of Texas. As documented in a Claims Register Report issued by the US Bankruptcy Court - Northern District of Texas, no monies from the proceedings were allowed for payment against the State of Florida's claim. Based on the actions of the US Bankruptcy Court - Northern District of Texas, the debt owed by Preferred Carrier Services, Inc. to the State of Florida was dismissed.

PCS emerged from bankruptcy during October 2002, and has consistently paid its regulatory assessment fees each year that it has been authorized by the Commission to provide intrastate interexchange telecommunications services in Florida.

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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 enjoined from exercising our regulatory authority seeking to collect a pre-petition debt which has been discharged by the bankruptcy court.

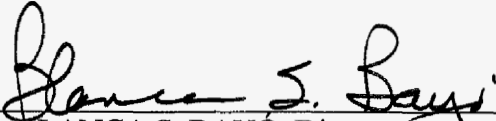
We are vested with jurisdiction over this matter pursuant to Sections 364.02, 364.285, and 364.603, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Division of the Commission Clerk & Administrative Services request permission from the Florida Department of Financial Services to write-off the uncollectible amount of \$10,000 due to the bankruptcy of Preferred Carrier Services, Inc. It is further

ORDERED that this Docket be closed.

By ORDER of the Florida Public Service Commission this 1st day of October, 2004.


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

(S E A L)

LF

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 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.