

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation by Florida
Public Service Commission of CLEC
Certificate No. 8489 and IXC Registration No.
TK184, issued to CommPartners, LLC,
effective December 31, 2010.

DOCKET NO. 110025-TP
ORDER NO. PSC-11-0210-PAA-TP
ISSUED: May 3, 2011

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING CANCELLATION OF COMPETITIVE LOCAL EXCHANGE CERTIFICATE
AND INTRASTATE INTEREXCHANGE COMPANY
TARIFF AND REMOVAL FROM THE REGISTER DUE TO 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.

Case Background

CommPartners, LLC currently holds competitive local exchange telecommunications company (CLEC) certificate No. 8489 issued on August 4, 2004, and intrastate interexchange telecommunications (IXC) Registration No. TK184 issued on December 17, 2007.

Pursuant to Section 364.336, Florida Statutes (F.S.), telecommunications companies must pay a minimum annual Regulatory Assessment Fee (RAF) if the certificate or registration was active during any portion of the calendar year and provides for late payment charges as outlined in Section 350.113, F.S., for any delinquent amounts.

On January 11, 2011, this Commission received a letter dated January 5, 2011, from CommPartners, LLC's President, Mr. Gregory Roepel, stating that the company has no customers or facilities in Florida and requesting cancellation of the company's CLEC certificate

DOCUMENT NUMBER-DATE

03029 MAY-3 =

FPSC-COMMISSION CLERK

and IXC registration. CommPartners, LLC filed for Chapter 11 bankruptcy protection in the District of Nevada, on July 2, 2010, Bankruptcy Petition No. 10-20933.

On January 25, 2011, this Commission received a letter dated January 19, 2011, from the company's Regulatory Compliance Manager, Ms. Carol Lisowski, requesting a bankruptcy cancellation of the CLEC certificate and IXC registration because the company does not have funds available to pay the regulatory assessment fees. The company owes the 2010 RAFs, plus the statutory late payment charges, for both the CLEC and IXC.

We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.02, 364.285, 364.336, and 364.337, F.S.

Analysis

The company filed for bankruptcy, and pursuant to 11 USCS § 362 (a) (1) and (a) (2) of the US Bankruptcy Code, the filing of a petition for bankruptcy relief acts as a stay to an administrative action or proceeding against the debtor that was or could have commenced before the bankruptcy proceeding. The bankruptcy filing also acts as a stay to enforcing a judgment obtained against the debtor before the bankruptcy action.¹ 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. Unsecured debts such as RAFs, late payment charges, penalties owed, and monetary settlements of cases are usually uncollectible in a bankruptcy proceeding where liquidation occurs. Therefore, this Commission may be prevented from collecting the RAFs owed by this company and from assessing and collecting a penalty for failure to pay the fees.

Ruling

We hereby find that CommPartners, LLC's CLEC Certificate No. 8489 and IXC Registration No. TK184 shall be cancelled due to bankruptcy, effective December 31, 2010. The unpaid Regulatory Assessment Fees shall not be sent to the Florida Department of Financial Services for collection, and permission for this Commission to write off the uncollectible amount shall be requested. CommPartners, LLC shall immediately cease and desist providing competitive local exchange and intrastate interexchange telecommunications services in Florida.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that CommPartners, LLC's local exchange telecommunications company (CLEC) certificate No. 8489 to provide competitive local exchange telecommunications service is hereby cancelled, effective December 31, 2010, due to bankruptcy. It is further

¹ See also 11 USCS § 362 (a) (6) which states that bankruptcy filing operates as a stay for any act, to collect, assess, or recover a claim that arose before the bankruptcy filing.

ORDERED by the Florida Public Service Commission that CommPartners, LLC's intrastate interexchange telecommunications (IXC) Registration No. TK184, is hereby cancelled and CommPartners, LLC's name removed from the register to provide intrastate interexchange telecommunications service, effective December 31, 2010, due to bankruptcy. It is further

ORDERED that the outstanding Regulatory Assessment Fees, including accrued statutory late payment charges, shall not be sent to the Department of Financial Services for collection. The Division of Administrative Services, instead, shall request permission to write off the uncollectible amount. It is further

ORDERED that when CommPartners, LLC's local exchange telecommunications company certificate (CLEC) and intrastate interexchange telecommunications tariff (IXC) are cancelled and its name removed from the register in accordance with this Order, it shall immediately cease and desist providing telecommunication 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 Office of Commission Clerk, 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 3rd day of May, 2011.



ANN COLE
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

(S E A L)

PERE

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), F.S., to notify parties of any administrative hearing that is available under Section 120.57, F.S., 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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 24, 2011.

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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.