

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 3546 issued to Network Access Inc. for violation of Rules 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-24.480(2) (a) and (b), F.A.C., Records & Reports; Rules Incorporated.

DOCKET NO. 001231-TI
ORDER NO. PSC-00-2525-PAA-TI
ISSUED: December 28, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE, REQUIRING PAYMENT OF REGULATORY ASSESSMENT
FEES AND REQUIRING INFORMATION IN ACCORDANCE WITH RULE 25-24.480,
FLORIDA ADMINISTRATIVE CODE, OR CANCELING INTEREXCHANGE
TELECOMMUNICATIONS CERTIFICATE

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.

Network Access Inc. (Network Access) currently holds Certificate of Public Convenience and Necessity No. 3546, issued by the Commission on May 3, 1994, authorizing the provision of Interexchange Telecommunications service (IXC). The Division of Administration advised our staff by memorandum that Network Access

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-00-2525-PAA-TI
DOCKET NO. 001231-TI
PAGE 2

had not paid the Regulatory Assessment Fees (RAFs) required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the year 1999. Also, accrued statutory penalties and interest charges for late RAFs payments for the year 1999 had not been paid.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual RAF of \$50 if the certificate 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 apply for certification receive a copy of our rules governing IXC service. All applicants must attest that these rules have been received and understood by the applicant and an affidavit must be attached to the application in order for the application to be processed.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms, for the period of January 1, through December 31, are mailed to the entities at least 45 days prior to the date that payment of the fee is due. Network Access has been given adequate opportunity to pay. As of the date of this vote, Network Access had not paid the required fees. The Commission's correspondence regarding the RAFs was returned by the United States Postal Service.

The return of these materials indicates that Network Access may have violated Rule 25-24.480, Florida Administrative Code, which requires the reporting to the Commission of an address change and/or a change in the name, title, or telephone number of the individual responsible for Commission contacts, within ten (10) days of its effectiveness. It has been well over 10 days and Network Access has not provided the information required by Rule 25-24.480, Florida Administrative Code, nor has it requested cancellation of its certificate in compliance with Rule 25-24.474, Florida Administrative Code.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Network Access's certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Network Access pays a \$1,000 fine and remits all past due RAFs, along with statutory penalties

ORDER NO. PSC-00-2525-PAA-TI

DOCKET NO. 001231-TI

PAGE 3

and interest charges, to the Florida Public Service Commission. We also find it appropriate to cancel Network Access's certificate for failure to comply with Rule 25-24.480, Florida Administrative Code, unless Network Access pays a \$500 fine and provides the information required by Rule 25-24.480, Florida Administrative Code, to the Florida Public Service Commission. Network Access must comply with these requirements within five business days after the issuance of the Consummating Order. The two fines, totaling \$1,500, will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285 (1), Florida Statutes.

As the appropriate fees, statutory penalties, interest charges, required information, and fines are received, this Docket shall be closed. Should Network Access fail to comply with this Order within five business days after the issuance of the Consummating Order, Network Access shall have its certificate canceled, effective on the date of issuance of the Consummating Order, and the Docket shall be closed. The cancellation of the certificate and the closing of the Docket in no way diminishes Network Access's obligation to pay applicable delinquent RAFs, and accrued statutory penalties and interest charges. The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Network Access Inc. must pay the past due regulatory assessment fees, statutory penalties, interest charges, and a \$1,000 fine to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, within five business days after the issuance of the Consummating Order. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that Network Access Inc. must provide the correct mailing address, liaison information, and other information in accordance with Rule 25-24.480, Florida Administrative Code, and pay a \$500 fine to the Florida Public Service Commission for failure to comply with Rule 25-24.480, Florida Administrative Code,

ORDER NO. PSC-00-2525-PAA-TI
DOCKET NO. 001231-TI
PAGE 4

within five business days after the issuance of the Consummating Order. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

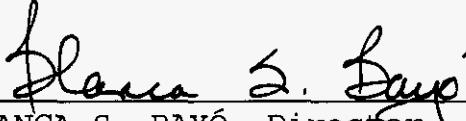
ORDERED that should Network Access Inc. fail to comply with this Order, Network Access Inc.'s Certificate No. 3546 shall be canceled, effective on the date of issuance of the Consummating Order, and this Docket shall be closed. It is further

ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes Network Access Inc.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. 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 Records and Reporting, 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 upon payment of the fines, and fees, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this 28th day of December, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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ORDER NO. PSC-00-2525-PAA-TI
DOCKET NO. 001231-TI
PAGE 5

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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 18, 2001.

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.