



# Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

## -M-E-M-O-R-A-N-D-U-M-

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**DATE:** APRIL 19, 2001

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *DK*  
DIVISION OF LEGAL SERVICES (ELLIOTT) *Mc Jr*

**RE:** DOCKET NO. 010268-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 2653 ISSUED TO AFFINITY CORPORATION D/B/A AFFINITY LONG DISTANCE, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 05/01/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\010268.RCM

### CASE BACKGROUND

- 05/01/91 - This company obtained Florida Public Service Commission Certificate No. 2653.
- 01/28/00 - The Commission received the company's 1999 Regulatory Assessment Fee (RAF) return. The company reported revenues in the amount of \$51,668 for the period ended December 31, 1999.
- 12/12/00 - The Division of Administration mailed the RAF notice. Payment was due January 30, 2001.
- 02/20/01 - The Division of Administration mailed a delinquent notice to the company.

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FPSC-RECORDS/REPORTING

- **02/23/01** - The Commission received a letter from this company, which advised it had ceased operations and was no longer in business.
- **02/27/01** - Staff e-mailed the company's president, Mr. Maurie Daigneau, and asked if the company was requesting cancellation of its certificate. Mr. Daigneau called staff and advised that the company was requesting cancellation of its certificate.
- **04/10/01** - As of this date, the company has not paid the past due amount or advised when the 2000 fee would be paid.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission grant Affinity Corporation d/b/a Affinity Long Distance, Inc. a voluntary cancellation of Certificate No. 2653?

**RECOMMENDATION:** No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 2653 on its own motion, effective on the date of issuance of the Consummating Order. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (Isler)

**STAFF ANALYSIS:** Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30, or the next business day, of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

On February 23, 2001, the Commission received a letter from the company's president, Mr. Maurie Daigneau, which advised that the company had "surrendered all of its assets" to its secured lender, had ceased operations, and was no longer in business. Mr. Daigneau's letter stated that "there was no surplus available for unsecured creditors of Affinity, such as you." On February 27, 2001, staff e-mailed Mr. Daigneau and asked if the company was requesting cancellation of its certificate. The company advised yes. Staff explained that a voluntary cancellation could not be recommended when there was an outstanding balance.

According to Commission records, Affinity has not paid the 2000 RAF, plus penalty and interest charges for the years 1991, 1992, 1994, 1996, and 2000. In addition, as of April 10, 2001 the company has not provided a date certain the 2001 fee would be paid as required by Rule 25-24.474, Florida Administrative Code. Accordingly, the Commission should not grant the company a voluntary cancellation of its IXC certificate. The Commission should cancel the company's Certificate No. 2653 on its own motion, effective on the date of issuance of the Consummating Order. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the fees or cancellation of the certificate. (Elliott)

**STAFF ANALYSIS:** Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon the issuance of a Consummating Order and upon receipt of the fees or cancellation of the certificate.