

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation  
by Florida Public Service  
Commission of Alternative Local  
Exchange Telecommunications  
Certificate No. 7344 and  
Interexchange Telecommunications  
Certificate No. 7508 issued to  
BroadBand Office Communications,  
Inc., effective 5/9/01.

DOCKET NO. 010970-TP  
ORDER NO. PSC-01-2064-FOF-TP  
ISSUED: October 18, 2001

The following Commissioners participated in the disposition of  
this matter:

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

ORDER GRANTING CANCELLATION OF  
ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE AND  
INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE DUE TO CHAPTER 11  
BANKRUPTCY

BY THE COMMISSION:

BroadBand Office Communications, Inc. (BroadBand) currently holds Alternative Local Exchange Telecommunications (ALEC) Certificate of Public Convenience and Necessity No. 7344, issued by the Commission on March 2, 2000, and Certificate of Public Convenience and Necessity No. 7508, authorizing the provision of Interexchange Telecommunications (IXC) service, issued by the Commission on July 18, 2000. The Division of the Commission Clerk and Administrative Services advised our staff by memorandum that BroadBand had not paid the 2000 Regulatory Assessment Fees (RAFs). Also accrued statutory penalties and interest charges for late RAFs payments for the year 2000 had not been paid. BroadBand was scheduled to remit its RAFs by January 30, 2001.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

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 ALEC and IXC services.

On June 14, 2001, the Commission received notice that BroadBand Communications, Inc. had filed for Chapter 11 bankruptcy protection on May 9, 2001. On July 16, 2001, the Commission received a letter dated July 13, 2001 from Ms. Tara K. Giunta and Elizabeth Holowinski, Counsel for the company, which requested cancellation of BroadBand's ALEC certificate due to the bankruptcy proceedings.

On July 30, 2001, staff called Ms. Holowinski, and explained that the company had an IXC Certificate in addition to its ALEC Certificate. Staff asked if the company wanted only the ALEC Certificate or both certificates cancelled. Ms. Holowinski advised that both certificates should be cancelled.

On August 1, 2001, staff received a letter from Coudert Brothers confirming that both the IXC and ALEC certificates should be cancelled. In addition, the letter stated that BroadBand does not have the financial resources to pay the regulatory assessment fees for the year 2001 and requested that the Commission waive the fees.

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)(5) 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." (emphasis added) Thus, it would appear that we are not enjoined from exercising our police powers to protect public health, safety and welfare, but are enjoined from exercising our regulatory authority to collect a debt. However, in this case, the Company has requested

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cancellation of its certificate. Under those circumstances, we are free to do so. Accordingly, we find it appropriate to cancel ALEC Certificate No. 7344 and IXC Certificate No. 7508, effective May 9, 2001. In addition, the Division of Administration shall 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. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes.

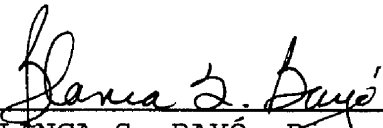
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that BroadBand Office Communications, Inc.'s Alternative Local Exchange Telecommunications Certificate No. 7344 and Interexchange Telecommunications Certificate No. 7508 are hereby cancelled, effective May 9, 2001. It is further

ORDERED that the past due RAFs shall not be sent to the Comptroller's Office for collection and permission to write of the uncollectible amount shall be requested. It is further

ORDERED that this Docket is closed.

By ORDER of the Florida Public Service Commission this 18th Day of October, 2001.

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

( S E A L )

JAE

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.