

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation
by Florida Public Service
Commission of Interexchange
Telecommunications Certificate
No. 4726 issued to Viatel
Services, Inc., effective
5/14/01.

DOCKET NO. 011001-TI
ORDER NO. PSC-01-2130-FOF-TI
ISSUED: October 29, 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 INTEREXCHANGE
TELECOMMUNICATIONS CERTIFICATE DUE TO
CHAPTER 11 BANKRUPTCY

BY THE COMMISSION:

Viatel Services, Inc. (Viatel) currently holds Certificate of
Public Convenience and Necessity No. 4726, issued by the Commission
on October 14, 1998, authorizing the provision of interexchange
telecommunications (IXC) service. The Division of the Commission
Clerk and Administrative Services advised our staff by memorandum
that Viatel 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. Viatel was
scheduled to remit its RAFs by January 30, 2001.

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.

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We received notice that Viatel had filed for Chapter 11 bankruptcy protection. In addition, the Commission received a letter from Viatel which requested cancellation of its certificate.

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 seeking to collect a debt. However, in this case, the company has requested cancellation of its certificate. Under those circumstances, this Commission is free to do so. We note that the Division of the Commission Clerk and Administrative Services will 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.

Accordingly, we find it appropriate to cancel interexchange telecommunications Certificate No. 4726, effective May 14, 2001. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.335, Florida Statutes.

Based on the foregoing, it is

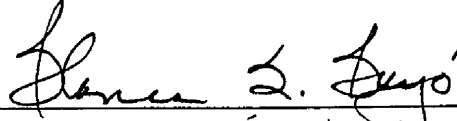
ORDERED by the Florida Public Service Commission that Viatel Services, Inc.'s Certificate No. 4726 to provide interexchange telecommunications services is hereby canceled, effective May 14, 2001. It is further

ORDERED that the outstanding Regulatory Assessment Fees should not be sent to the Comptroller's Office for collection. The Division of the Commission Clerk and Administrative Services, instead, shall request for permission to write-off the uncollectible amount. It is further

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ORDERED that this Docket is closed.

By ORDER of the Florida Public Service Commission this 29th
Day of October, 2001.



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

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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.