



ORIGINAL

Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

COMMISSION
CLERK

JAN 31 PH 3:17

RECEIVED FPSC

DATE: January 31, 2002
TO: Blanca Bayó, Director, Division of Commission Clerk and Administrative Services
FROM: Kimberley Peña, Bureau of Telecommunications, Division of Legal Services *kmp*
RE: Request for Permission from Comptroller's Office to Write-Off the RAFs for the years 1998, 1999, and 2000 for Capital Services of South Florida, Inc. (TI551).

On October 11, 1999, Docket No. 991546-TI was established to address TI551's failure to remit RAFs for the years 1998 and 1999. By Order No. PSC-01-1158-PAA-TI, issued on May 21, 2001, the Commission approved the cancellation of TI551's Interexchange Telecommunications Certificate No. 4751 due to bankruptcy. The Commission further ordered that the outstanding Regulatory Assessment Fees not be sent to the Comptroller's Office for collection, but instead, that the Division of the Commission Clerk and Administrative Services should request permission to write-off the uncollectible amount.

Therefore, staff requests that Bureau of Administrative Services/Fiscal Services Section take the appropriate steps to seek permission from the Comptroller's Office to write-off the uncollectible RAFs for the years 1998, 1999, and 2000 for TI551.

KMP

cc: Jackie Knight
Paula Isler
Felicia Banks

- AUS _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
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- OPC _____
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- SEC _____
- OTH _____

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

**STATE OF FLORIDA
OFFICE OF THE COMPTROLLER
BUREAU OF AUDITING
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL**

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION

DATE: 1/31/02

CONTACT: KAREN BELCHER, DIRECTOR, FISCAL SERVICES

PHONE NUMBER: 413-6273

SAMAS ACCOUNT CODE: 61 20 2 573003 610000 00 000300
61 74 1 000331 610000 00 001200

TI551
991546-TI Capital Services of South Florida, Inc.

AGENCY REFERENCE #	LAST NAME	FIRST	MIDDLE	SOCIAL SECURITY NUMBER	COMPTROLLER USE ONLY
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Capital Services of South Florida, Inc., 7154 North University Drive, Suite 250 Tamarac, FL 33321

LAST KNOWN ADDRESS (INCLUDE ZIP)				
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HOME TELEPHONE	WORK TELEPHONE	PRINCIPLE AMOUNT	PENALTY/INTEREST AMOUNT	TOTAL
		\$150	\$42.50/\$38	\$230.50

PENALTY/INTEREST AUTHORITY	DATE DEBT INCURRED	DEBT TYPE
§ 364.336, F.S. § 350.113, F.S. Rule 25-4.0161, F.A.C.	February 2, 1999	8

1998, 1999, and 2000 REGULATORY ASSESSMENT FEES

DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE

ADDITIONAL INFORMATION, e.g., DATE OF BIRTH, DRIVER LICENSE NUMBER, ETC.
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 4751 issued to
Capital Services of South
Florida, Inc. for violation of
Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 991546-TI
ORDER NO. PSC-01-1158-PAA-TI
ISSUED: May 21, 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

NOTICE OF PROPOSED AGENCY ACTION ORDER
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.

On December 11, 1996, Capital Services of South Florida, Inc.
("Capital" or "Company") was granted Florida Public Service
Commission Certificate No. 4751. On its latest Regulatory
Assessment Fee return filed with this Commission, the company
reported no revenues for the period ended December 31, 1997. On
December 10, 1998, the Division of Administration (DOA) mailed the
Regulatory Assessment Fee (RAF) notice. Payment was due by
February 1, 1999. The DOA mailed a delinquent notice for
nonpayment of the 1998 RAF on March 17, 1999.

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On October 26, 1999, our staff received a letter from the company, which advised payment had been made on June 25, 1999. On November 19, 1999, our staff received another letter from the company. Again the company advised that payment for the 1998 RAF had been made.

Our staff wrote the company on November 23, 1999 and advised that Commission records showed no payment for the 1998 RAF had been received. Our staff requested a copy, front and back, of the company's cancelled check by December 7, 1999. No response was received. At the February 1, 2000 Agenda Conference, we voted to impose a \$500 fine or cancel the company's certificate. On February 2, 2001, we received a Notice of Bankruptcy (Chapter 11) for this company.

On February 22, 2000, our staff wrote a memo to the Commissioners advising that the Proposed Agency Action Order would not be issued since the company had filed for Chapter 11 Bankruptcy protection. On June 6, 2000, this docket was deferred from the June 6, 2000, Agenda Conference to allow our staff additional time to contact the Bankruptcy Trustee.

Our records showed that Capital Services had not paid the 1998, 1999, and 2000 RAFs nor the statutory penalty and interest charges owed for the late filing of its 1996, 1997, 1998, 1999, and 2000 RAFs. Rule 25-4.0161, Florida Administrative Code, requires the payment of RAFs 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 April 10, 2001, the Bankruptcy Trustee advised our staff that Capital Services' bankruptcy had converted to a Chapter 7 bankruptcy. As of April 11, 2001, the past due RAFs, plus statutory penalty and interest charges for the late filing of prior years' RAFs remain unpaid.

Chapter 7 of Section 109 of the Federal Bankruptcy Code provides for total liquidation of the business entity. The filing of a bankruptcy petition under Chapter 7 invokes an automatic injunction known as the Automatic Stay, codified in Bankruptcy Code Section 362. Upon such filing, an interim Trustee in Bankruptcy is

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immediately appointed who has the duty to collect and secure the non-exempt assets of the debtor and distribute them to creditors in the manner set forth in the Bankruptcy Code. Secured creditors are given the highest priority in the distribution and, normally, receive all of the distributed assets. Regulatory fees and penalties owed by a company to the Florida Public Service Commission are not secured debts and, as a practical matter, are uncollectible in a Chapter 7 proceeding.

This Commission is prevented by the automatic stay provision of the Bankruptcy Code from taking action against this company for its failure to pay regulatory assessment fees. In a Chapter 7 proceeding, however, the company ceases to exist and, accordingly, its certificate must be reclaimed. Furthermore, the DOA shall be notified that the past due RAFs should not be sent to the Comptroller's Office for collection.

Therefore, we find it appropriate to reconsider our vote from the February 1, 2000, Agenda Conference and hereby grant the company a bankruptcy cancellation of its Certificate No. 4751 with an effective date of February 2, 2000. In addition, we shall not forward the outstanding RAFs to the Comptroller's Office for collection, but our staff shall seek permission for us to write-off the uncollectible amount.

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 Capital Services of South Florida, Inc.'s Certificate No. 4751 to provide Interexchange Telecommunications services is hereby canceled, effective February 2, 2000. 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

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close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" 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 21st day of May, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

FRB

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.

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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 June 11, 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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 4751 issued to
Capital Services of South
Florida, Inc. for violation of
Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees;
Telecommunications Companies.

DOCKET NO. 991546-TI
ORDER NO. PSC-01-1356-CO-TI
ISSUED: June 21, 2001

CONSUMMATING ORDER


BY THE COMMISSION:

By Order No. PSC-01-1158-PAA-TI, issued May 21, 2001, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. No response has been filed to the order. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-01-1158-PAA-TI has become effective and final. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 21st Day of June, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 judicial review of Commission orders that is available pursuant to Section 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 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 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 Records and Reporting 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.