



Public Service Commission

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COMMISSION CLERK

**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 1999, 2000, 2001 for PointeCom, Incorporated d/b/a Telscape Communications (TJ294).

On September 11, 2000, Docket No. 001361-TI was established to address TJ294's failure to remit RAFs for the year 1999. By Order No. PSC-01-1786-PAA-TI, issued on September 4, 2001, the Commission approved the cancellation of TJ294's Interexchange Telecommunications Certificate No. 7219 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 1999, 2000, 2001 for TJ294.

KMP

cc: Jackie Knight  
Paula Isler  
Felicia Banks

- AUS
- CAF
- CMP
- COM
- CTR
- ECR
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- MMS
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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

TJ294  
001361-TI                      PointeCom, Incorporated d/b/a Telscape Communications

AGENCY REFERENCE #	LAST NAME	FIRST	MIDDLE	SOCIAL SECURITY NUMBER	COMPTROLLER USE ONLY
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PointeCom, Incorporated d/b/a Telscape Communications, 1325 Northmeadow Parkway, Suite 110 Roswell, GA 30076

LAST KNOWN ADDRESS (INCLUDE ZIP)

HOME TELEPHONE	WORK TELEPHONE	PRINCIPLE AMOUNT	PENALTY/INTEREST AMOUNT	TOTAL
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§ 364.336, F.S.	\$150	\$25/\$18.50	\$193.50
§ 350.113, F.S. Rule 25-4.0161, F.A.C.		February 1, 2000	8
PENALTY/INTEREST AUTHORITY		DATE DEBT INCURRED	DEBT TYPE

1999, 2000, 2001 REGULATORY ASSESSMENT FEES

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

ADDITIONAL INFORMATION, e.g., DATE OF BIRTH, DRIVER LICENSE NUMBER, ETC.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida  
Public Service Commission of  
Interexchange Telecommunications  
Certificate No. 5696 issued to  
Twister Communications Network,  
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. 001313-TI  
ORDER NO. PSC-01-1009-PAA-TI  
ISSUED: April 24, 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 October 13, 1998, Twister Communications Network, Inc.  
(Twister) was granted Interexchange Telecommunications (IXC)  
Certificate of Public Convenience and Necessity No. 5696. On  
December 8, 1999, our Division of Administration (DOA) mailed the  
Regulatory Assessment Fee (RAF) notice. Payment was due by January  
31, 2000. Our DOA mailed a delinquent letter to Twister on

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February 29, 2000. On September 6, 2000, this Commission received notice that Twister had filed for Chapter 7 bankruptcy on May 23, 2000.

As of March 19, 2001, the 1999 RAF, plus statutory penalty and interest charges, had not been paid. In addition, the 2000 RAF Fee is now past due and has not been paid. We note that this Commission was never formally served notice of bankruptcy proceedings for Twister.

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 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 Twister for its failure to pay Regulatory Assessment Fees. Although this Commission does not typically grant a cancellation of a telecommunications certificate when there is an outstanding balance, a cancellation should be granted in this case, since Twister filed for protection under Chapter 7 of the Bankruptcy Code.

Accordingly, we believe that a "bankruptcy cancellation" of Twister's Certificate No. 5696 is appropriate, with an effective date of September 6, 2000. In addition, the DOA will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection, but that permission for this Commission to write-off the uncollectible amount will be requested.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Twister Communications Network, Inc.'s Certificate No. 5696 to provide Interexchange Telecommunications services is hereby canceled, effective September 6, 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 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 24th day of April, 2001.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

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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 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 May 15, 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. 5696 issued to Twister Communications Network, 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. 001313-TI  
ORDER NO. PSC-01-1152-CO-TI  
ISSUED: May 21, 2001

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-01-1009-PAA-TI, issued April 24, 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-01-1009-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 May, 2001.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

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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.