

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation  
by Florida Public Service  
Commission of IXC Certificate  
No. 5723 and ALEC Certificate  
No. 7266 issued to Convergent  
Communications Services, Inc.,  
effective 3/12/02.

DOCKET NO. 020224-TP  
ORDER NO. PSC-02-0507-PAA-TP  
ISSUED: April 12, 2002

The following Commissioners participated in the disposition of  
this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING CANCELLATION OF INTEREXCHANGE  
TELECOMMUNICATIONS AND ALTERNATIVE LOCAL EXCHANGE  
TELECOMMUNICATIONS CERTIFICATES DUE TO CHAPTER 11 BANKRUPTCY

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.

Convergent Communications Services, Inc. (Convergent  
Communications) currently holds Certificate of Public Convenience  
and Necessity No. 5723, issued by the Commission on November 17,  
1998, authorizing the provision of Interexchange Telecommunications  
(IXC) service and Certificate of Public Convenience and Necessity  
No. 7266, issued by the Commission on December 29, 1999,  
authorizing the provision of Alternative Local Exchange  
Telecommunications (ALEC). By letter dated March 5, 2002,

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Convergent Communications served notice to the Commission that it had filed for Chapter 11 bankruptcy protection. In addition, the letter requested cancellation of Convergent Communications' IXC Certificate No. 5723 and ALEC Certificate No. 7266 and asked that any unpaid RAFs be written off as no funds exist.

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. Convergent Communications was scheduled to remit its RAFs for the year 2001 by January 30, 2002.

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 IXC Certificate No. 5723 and ALEC Certificate No. 7266, effective March 12, 2002. If Convergent Communications's certificates are canceled in accordance with this Order, Convergent Communications shall immediately cease and desist providing IXC and ALEC services in Florida. We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.335, Florida Statutes.

ORDER NO. PSC-02-0507-PAA-TP  
DOCKET NO. 020224-TP  
PAGE 3

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Convergent Communications Services, Inc.'s Certificate No. 5723 to provide Interexchange Telecommunications services is hereby canceled, effective March 12, 2002. It is further

ORDERED by the Florida Public Service Commission that Convergent Communications Services, Inc.'s Certificate No. 7266 to provide Alternative Local Exchange Telecommunications services is hereby canceled, effective March 12, 2002. 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

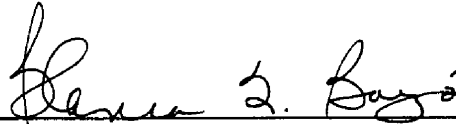
ORDERED that if Convergent Communications Services, Inc.'s Certificate No. 5723 and Certificate No. 7266 are canceled in accordance with this Order, that entity shall immediately cease and desist providing Interexchange Telecommunications and Alternative Local Exchange Telecommunications services in Florida. 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

ORDER NO. PSC-02-0507-PAA-TP  
DOCKET NO. 020224-TP  
PAGE 4

By ORDER of the Florida Public Service Commission this 12th  
day of April, 2002.



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

( S E A L )

KMP

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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 3, 2002.

ORDER NO. PSC-02-0507-PAA-TP  
DOCKET NO. 020224-TP  
PAGE 5

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.