

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation  
by Florida Public Service  
Commission of IXC Certificate  
No. 7824 issued to Novo Networks  
Metro Services, Inc., effective  
5/14/02.

DOCKET NO. 020444-TI  
ORDER NO. PSC-02-0843-PAA-TI  
ISSUED: June 19, 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 COMPANY  
CERTIFICATE 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.

Novo Networks Metro Services, Inc. (Novo) currently holds  
Certificate of Public Convenience and Necessity No. 7824, issued by  
the Commission on May 30, 2001, authorizing the provision of  
Interexchange Company service. The Division of the Commission  
Clerk and Administrative Services advised our staff that Novo had  
not paid the 2001 Regulatory Assessment Fees (RAFs). Also, accrued  
statutory penalties and interest charges for late RAFs payments for  
the year 2001 had not been paid. Novo was scheduled to remit its  
RAFs by December 31, 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 Interexchange Company service.

On August 27, 2001, the Commission received notice that Novo Networks Metro Services, Inc. had filed for Chapter 11 bankruptcy protection. On May 14, 2002, the Commission received a letter dated May 10, 2002, from Ms. Susie Holliday, Senior Vice President/Accounting, which requested cancellation of the company's IXC certificate since the company had no customers in Florida and due to the bankruptcy proceedings. In addition, Ms. Holliday advised that the company had no funds to pay the RAFs and asked that the unpaid RAFs be written-off.

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 (CCA) will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection, but that CCA shall request permission for the Commission to write-off the uncollectible amount.

Accordingly, we find it appropriate to cancel Interexchange Company Certificate No. 7824, effective May 14, 2002. If Novo's certificate is canceled in accordance with this Order, Novo shall

ORDER NO. PSC-02-0843-PAA-TI  
DOCKET NO. 020444-TI  
PAGE 3

immediately cease and desist providing Interexchange Company services in Florida. 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 Novo Networks Metro Services, Inc.'s Certificate No. 7824 to provide Interexchange Company services is hereby canceled, effective May 14, 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 Novo Networks Metro Services, Inc.'s Certificate No. 7824 is canceled in accordance with this Order, that entity shall immediately cease and desist providing Interexchange Company 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-02-0843-PAA-TI  
DOCKET NO. 020444-TI  
PAGE 4

By ORDER of the Florida Public Service Commission this 19th  
Day of June, 2002.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

LHD

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.

ORDER NO. PSC-02-0843-PAA-TI  
DOCKET NO. 020444-TI  
PAGE 5

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 July 10, 2002.

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.