

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation  
by Florida Public Service  
Commission of IXC Certificate  
No. 7086 and ALEC Certificate  
No. 7087 issued to Actel  
Integrated Communications, Inc.

DOCKET NO. 021177-TP  
ORDER NO. PSC-02-1775-PAA-TP  
ISSUED: December 18, 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  
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.

Rules 25-24.474 and 25-24.820, Florida Administrative Code, establish the requirements for cancellation of IXC and ALEC certificates, respectively. Rule 25-4.0161, Florida Administrative Code, incorporated by Rules 25-24.480 and 25-24.835, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of Regulatory Assessment Fees by January 30 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.

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

On April 11, 2001, Actel Integrated Communications, Inc. filed for Chapter 11 bankruptcy protection, which was converted to a Chapter 7 bankruptcy proceeding on June 14, 2001. 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.

We are prevented by the automatic stay provision of the Bankruptcy Code from taking action against this company for its failure to pay regulatory assessment fees. Although we do not typically grant a cancellation of a telecommunications certificate when there is an outstanding balance, a cancellation can be granted in this case, since the company requested cancellation of its certificate. However, it should be noted that the Division of the Commission Clerk & Administrative Services will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection.

Therefore, we hereby grant the company a bankruptcy cancellation of its IXC Certificate No. 7086 and its ALEC Certificate No. 7087 with an effective date of November 18, 2002. In addition, the Division of the Commission Clerk & Administrative Services will be notified that the 2001 and 2002 RAFs, including statutory penalty and interest charges for the years 2000 and 2001 for each certificate, 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. If the certificates are cancelled in accordance with this Order, Actel Integrated Communications, Inc. shall be required to immediately cease and desist providing interexchange telecommunications and alternative local exchange services in Florida.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Actel Integrated Communications, Inc.'s Certificate No. 7086 to provide Interexchange Telecommunications services is hereby canceled, effective November 18, 2002. It is further

ORDERED by the Florida Public Service Commission that Actel Integrated Communications, Inc.'s Certificate No. 7087 to provide Alternative Local Exchange Telecommunications services is hereby canceled, effective November 18, 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 Actel Integrated Communications, Inc.'s Certificate No. 7086 is canceled in accordance with this Order, that entity shall immediately cease and desist providing Interexchange Telecommunications services in Florida. It is further

ORDERED that if Actel Integrated Communications, Inc.'s Certificate No. 7087 is canceled in accordance with this Order, that entity shall immediately cease and desist providing 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.

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By ORDER of the Florida Public Service Commission this 18th  
day of December, 2002.



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

( 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 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 8, 2003.

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.