

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Minimum Rate Pricing, Inc. for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

DOCKET NO. 971482-TI

In re: Initiation of show cause proceedings against Minimum Rate Pricing, Inc. for violation of Rules 25-4.118, F.A.C., Interexchange Carrier Selection, and 25-4.043, F.A.C., Response to Commission Staff Inquiries.

DOCKET NO. 980335-TI  
ORDER NO. PSC-04-0382-FOF-TI  
ISSUED: April 8, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman  
J. TERRY DEASON  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

ORDER CANCELLING IXC REGISTRATION AND DIRECTING THAT PERMISSION  
BE SOUGHT TO WRITE OFF MONIES OWED

BY THE COMMISSION:

Background

Minimum Rate Pricing, Inc. (MRP), was issued Certificate Number 4417 on May 7, 1996, as a provider of interexchange telecommunications service in Florida.

On February 23, 1998, we issued Order No. PSC-98-0313-FOF-TI, in Docket No. 971482-TI, requiring MRP to show cause why it should not have certificate number 4417 canceled or be fined \$500,000 for 50 apparent unauthorized carrier change (slamming) violations that were closed by the Division of Consumer Affairs between June 13, 1996, through January 20, 1998.

On February 9, 1998, we issued Order No. PSC-98-0259-PCO-TI, acknowledging the Office of Public Counsel's January 23, 1998, Notice of Intervention. In addition, Order No. PSC-98-0388-PCO-TI was issued on March 12, 1998, granting the Attorney General's January 26, 1998, request to intervene.

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On March 5, 1998, a second docket was opened to initiate show cause proceedings for the continuous inflow of consumer complaints regarding alleged unauthorized carrier changes. Between January 20, 1998, and September 10, 1998, an additional 423 complaints were received regarding unauthorized carrier changes by MRP. Our staff determined that 144 of those complaints were apparent unauthorized carrier changes.

After numerous meetings between our staff and MRP regarding the pending show cause proceedings, on December 17, 1998, MRP filed an offer of settlement which proposed to settle all allegations contained in both of the referenced Dockets. In that settlement proposal, MRP agreed to totally modify its operations to conform to the expectations of this Commission. In addition, MRP agreed to make a total voluntary contribution of \$100,000, in 12 equal monthly installments, to the General Revenue Fund of the State of Florida with no admission of liability or wrongdoing. That proposal was approved on February 10, 1999, by Order No. PSC-99-0261-AS-TI.

On February 26, 1999, MRP filed for protection under Chapter 11 of the United States Bankruptcy Code, and on July 19, 1999, our staff filed a claim with the United States Bankruptcy Court, District of New Jersey, for the amounts owed this Commission. No payments were ever received from MRP pursuant to the approved settlement agreement. At this time there is a draft of the Bankruptcy Court's final order being circulated. That draft order does not contain provisions for any payment to this Commission for monies owed by MRP.

As of this date, the company has been totally liquidated and is not providing services of any type. We note regulatory assessment fee (RAF) penalties and interest were not paid for 1997 and 1998, and that MRP has paid nothing at all for the years 1999 - 2003. In addition, there is no longer a company management structure with which we can interact for purposes of resolving issues.

### Analysis

MRP has been totally liquidated in bankruptcy proceedings. The company is not providing services of any type in Florida and has not paid RAFs for the last five years. The Bankruptcy Court docket remains open only because of some lingering disputes among the secured creditors over the remaining assets of the company. There is no possibility that MRP will again provide telecommunications services in Florida. Accordingly, MRP's IXC registration number TI434 shall be canceled.

Additionally, in any bankruptcy liquidation or reorganization secured creditors are given the highest priority in the distribution and, normally, receive all of the distributed assets. Regulatory fees, interest, 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 bankruptcy proceeding where liquidation occurs. Accordingly, submitting the monies owed to this

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Commission by MRP for collection would be a meaningless gesture and would only require the continued expenditure of the State's valuable resources with no hope of any recovery. Therefore, permission shall be sought from the Department of Financial Services to write off all monies owed by MRP in these dockets.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Minimum Rate Pricing, Inc.'s IXC Registration Number TI434 is hereby canceled. It is further

ORDERED that permission be sought from the Department of Financial Services to write off all monies owed by Minimum Rate Pricing, Inc. in these dockets. It is further

ORDERED that these Dockets be closed.

By ORDER of the Florida Public Service Commission this 8th day of April, 2004.

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

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

LF

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 or judicial review of Commission orders that is available under Sections 120.57 or 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 an administrative hearing or 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: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 the Commission Clerk and Administrative Services 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.