

State of Florida



ORIGINAL

Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

040000-PU

DATE: April 13, 2004

TO: Karen Belcher, Finance and Accounting Director III, Division of Commission Clerk and Administrative Services

FROM: Victor S. McKay, Research Assistant, Office of the General Counsel *VSM*

RE: Docket No. 030632-TX – Bankruptcy cancellation by Florida Public Service Commission of CLEC Certificate No. 7880 issued to W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc.

Request for Permission from Department of Financial Services to Write-Off the RAFs for the year(s) 2001, 2002, and 2003 for W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc. (TX570).

On July 16, 2003, Docket No. 030632-TX was established to address TX570's failure to remit RAFs for the year(s) 2001, 2002, and 2003. By Order No. PSC-03-1336-PAA-TX, issued on November 24, 2003, the Commission approved the cancellation of TX570's Competitive Local Exchange Certificate No. 7880. The Commission further ordered that the outstanding Regulatory Assessment Fees not be sent to the Department of Financial Services 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 Department of Financial Services to write-off the uncollectible RAFs for the year(s) 2001, 2002, and 2003 for TX570.

VSM

cc: Paula Isler

I:\030632rafmemovsm.doc

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DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

**STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
BUREAU OF ACCOUNTING
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL
(PLEASE PRINT OR TYPE)**

AGENCY FLORIDA PUBLIC SERVICE COMMISSION DATE April 1, 2004 PAGE 1 OF 2
 CONTACT KAREN BELCHER, FINANCE AND ACCOUNTING DIRECTOR III
 PHONE NUMBER 850-413-6273
 LAIR ACCOUNT CODE SAMAS ACCOUNT CODES: 61 50 2 573003 610100 00 000300
 61 74 1 000331 610100 00 001200

030632 W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc.

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
19 East Hillsborough Ave., Tampa, FL 33610-4404					
Last Known Address (Include Zip)					
313) 873-2337		0		10.00/2.00	12.00
Home Telephone	Work Phone	Principal Amount		Penalty/Interest Amount	Total
364.366, F.S., §350.113, F.S., Rule 25-4.0161, F.A.C		2001		8	
Penalty/Interest Authority		Date Debt Incurred		Debt Type	

Debt Description, e.g., Drivers License, Property Damage

Additional Information, e.g., Date of Birth, Drivers License Number, etc

030632 W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc.

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
19 East Hillsborough Ave., Tampa, FL 33610-4404					
Last Known Address (Include Zip)					
313) 873-2337		50.00		12.50/14.00	76.50
Home Telephone	Work Phone	Principal Amount		Penalty/Interest Amount	Total
364.366, F.S., §350.113, F.S., Rule 25-4.0161, F.A.C		2002		8	
Penalty/Interest Authority		Date Debt Incurred		Debt Type	

Debt Description, e.g., Drivers License, Property Damage

Additional Information, e.g., Date of Birth, Drivers License Number, etc

030632 W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc.

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
19 East Hillsborough Ave., Tampa, FL 33610-4404					
Last Known Address (Include Zip)					
(813) 873-2337		50.00		12.50/8.00	76.50
Home Telephone	Work Phone	Principal Amount		Penalty/Interest Amount	Total
364.366, F.S., §350.113, F.S., Rule 25-4.0161, F.A.C		2003		8	
Penalty/Interest Authority		Date Debt Incurred		Debt Type	

Debt Description, e.g., Drivers License, Property Damage

Additional Information, e.g., Date of Birth, Drivers License Number, etc

****DEBIT TYPE CODE****

1. RETURNED CHECK 2. NONPAYMENT FOR STATE GOODS/SERVICES 3. DAMAGE TO STATE PROPERTY
7. COURT ORDER 8. FINES 9. OVERPAYMENT OF STATE FUNDS

GENERAL INSTRUCTIONS

Provide as much information as possible for each account or returned check listed. Names should include legal entities as well as individuals. Principal Amount is the original amount of the debt excluding any service charge, penalty, and/or interest. Penalty/Interest Amount is the amount of the service charge, penalty, and/or interest due to date on the delinquent account or returned check. For those accounts subject to interest charges, please indicate the interest rate, method of calculation, and whether the rate is subject to change. Penalty/Interest Authority is the Florida Statutory and/or Florida Administrative Code citation authorizing the service charge, penalty, and/or interest on delinquent accounts and returned checks. Date Incurred is the date the account became delinquent; e.g., the date a check was returned marked NSF, the date an invoice was due to be paid, etc. Debt Type must be indicated using the codes listed at the bottom of the form.

In order to properly pursue a delinquent account the Bureau of Accounting and the collection agency, if used, require pertinent information about the debt and debtor. Such information regarding the debt should be provided in the area titled Debt Description and include the purpose of the original payment by check; type of goods/services provided; what, when, and where State property was damaged; when, why and what court ordered a payment; when and why a fine was issued; for what and when were State funds overpaid; etc. Additional Information about the debtor should include, if available, date of birth, driver license number, credit card type and number, names and addresses of relatives, and any other information that may be used to locate the debtor. The more the Bureau and the collection agency know about the debt and debtor the more likely the recovery of the debt.

To facilitate the transfer of moneys collected, each agency shall designate one FLAIR revenue account code to which all moneys will be transferred by the journal transfer. Agencies will be provided a detailed listing of amounts collected and collection fees charged for each amount. The Department will also provide instructions in accordance with Generally Accepted Accounting Principles on the appropriate method of recording the difference between any moneys collected and the amount of the delinquent account; i.e., treat the difference as cost of collection or provide approval for adjusting the balance of the account pursuant to Section 17.04, Florida Statutes.

Forms and Questions should be addressed to:

Department of Financial Services
Bureau of Accounting
Room 414 Fletcher Building
200 East Gaines Street
Tallahassee, Florida 32399-0354
(850) 410-9365 / SC 210-9365

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation
by Florida Public Service
Commission of CLEC Certificate
No. 7880 issued to W.G.I.
Communications, Inc. d/b/a
Boomerang Communications, Inc.,
effective 9/15/03.

DOCKET NO. 030632-TX
ORDER NO. PSC-03-1336-PAA-TX
ISSUED: November 24, 2003

The following Commissioners participated in the disposition of
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CANCELLATION OF COMPETITIVE LOCAL
EXCHANGE 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.

W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc. (W.G.I.) currently holds Certificate of Public Convenience and Necessity No. 7880, issued by the Commission on August 27, 2001, authorizing the provision of Competitive Local Exchange service. The Division of the Commission Clerk and Administrative Services advised our staff that W.G.I. had not paid the 2001 and 2002 Regulatory Assessment Fees (RAFs). Also, accrued statutory penalties and interest charges for late RAFs payments for the 2001 and 2002 had not been paid.

ORDER NO. PSC-03-1336-PAA-TX
DOCKET NO. 030632-TX
PAGE 2

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 Competitive Local Exchange service.

On December 12, 2002, The Division of the Commission Clerk & Administrative Services mailed the 2002 RAF return form notifying the company that payment was due by January 30, 2003. The Office of the General Counsel mailed a delinquent notice via certified mail on February 21, 2003. The delinquent notice was signed for and delivered on February 27, 2003. The Division of the Commission Clerk & Administrative Services notified our staff that this company had not paid its 2002 RAF. Our staff again wrote the company and explained that the 2002 RAFs had not been paid and that in order to avoid an enforcement docket from being established, the RAFs needed to be paid by April 30, 2003.

After our staff faxed the company a note attempting collection, Docket No. 030632-TX was established on July 16, 2003, for nonpayment of the 2002 RAFs. On August 15, 2003, we received notice that this company filed for Chapter 11 bankruptcy protection in the United States Bankruptcy Court, Middle District of Florida, Tampa Division (Case No. 03-05415). Our staff proceeded to faxed the company's attorney, Mr. Chad Bowen, a letter and asked him to request cancellation of W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc.'s CLEC certificate if the company no longer existed and had no need of the certificate. We received that request in a letter dated September 12, 2003. Also on this date, our staff requested that the docket title be changed to reflect that this would be a bankruptcy cancellation. As of October 3, 2003 there were no outstanding consumer complaints against the company

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 Department of Financial Services for collection, but that permission for the Commission to write-off the uncollectible amount should be requested.

Accordingly, we find it appropriate to cancel Competitive Local Exchange Certificate No. 7880, effective September 15, 2003. If W.G.I.'s certificate is canceled in accordance with this Order, W.G.I. shall immediately cease and desist providing Competitive Local Exchange 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 W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc.'s Certificate No. 7880 to provide Competitive Local Exchange services is hereby canceled, effective September 15, 2003. It is further

ORDERED that the outstanding Regulatory Assessment Fees should not be sent to the Department of Financial Services for collection. The Division of the Commission Clerk and Administrative Services, instead, shall request permission to write-off the uncollectible amount. It is further

ORDERED that if W.G.I. Communications, Inc. d/b/a Boomerang Communications, Inc.'s Certificate No. 7880. is canceled in accordance with this Order, that entity shall immediately cease and desist providing Competitive Local Exchange services in Florida. It is further

ORDER NO. PSC-03-1336-PAA-TX
DOCKET NO. 030632-TX
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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.

By ORDER of the Florida Public Service Commission this 24th Day of November, 2003.

/s/ Blanca S. Bayó
BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

VSM

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 December 15, 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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation
by Florida Public Service
Commission of CLEC Certificate
No. 7880 issued to W.G.I.
Communications, Inc. d/b/a
Boomerang Communications, Inc.,
effective 9/15/03.

DOCKET NO. 030632-TX
ORDER NO. PSC-03-1430-CO-TX
ISSUED: December 17, 2003

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-03-1336-PAA-TX, issued November 24, 2003, 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, in regard to the above mentioned docket. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-03-1336-PAA-TX has become effective and final. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 17th Day of December, 2003.

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

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

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

VSM

ORDER NO. PSC-03-1430-CO-TX
DOCKET NO. 030632-TX
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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 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.