

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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99 NOV -3 PM 3:20
RECORDS AND REPORTING

DATE: NOVEMBER 4, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pij*
DIVISION OF LEGAL SERVICES (K. PEÑA) *UMP BR*

RE: DOCKET NO. 991249-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4046 ISSUED TO SMARTALK TELESERVICES, INC. D/B/A PRONTO! FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 11/16/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991249.RCM

CASE BACKGROUND

- 07/04/95 - Pronto! obtained IXC Certificate No. 4046.
- 12/10/98 - The Division of Administration mailed the regulatory assessment fee (RAF) notice.
- 02/01/99 - Payment was due.
- 02/15/99 - The Commission received a Bankruptcy Notice.
- 03/17/99 - The Division of Administration mailed a delinquent notice to the company.

DOCUMENT NUMBER-DATE

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- 05/12/99 - The Commission received a letter from The Rebensdorf Group, Inc. requesting cancellation of this company's certificate.
- 07/20/99 - The Division of Appeals wrote The Rebensdorf Group, Inc. for additional information, including a copy of the Bankruptcy Court Order, which approved the sale.
- 08/06/99 - The Bankruptcy Court Order was received. The Division of Appeals advised staff to go forward with the cancellation of the certificate.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant SmarTalk TeleServices, Inc. d/b/a Pronto! a voluntary cancellation of IXC Certificate No. 4046?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its IXC certificate. The Commission should cancel the company's certificate on its own motion, effective on the date of issuance of the Consummating Order. (Isler)

STAFF ANALYSIS: Although the Commission received notice that this company had filed for bankruptcy, Pronto! has not paid its 1998 regulatory assessment fee, including statutory penalty and interest charges for 1995 and 1998. The Division of Appeals advised staff to recommend cancellation of the company's certificate and that a fine was not appropriate since the company was in bankruptcy proceedings and because the company has an outstanding balance with the Commission.

Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30, or the next business day, 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.

As of October 26, 1999, the past due RAF, penalty and interest charges remain unpaid. Accordingly, the Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's certificate on its own motion, effective on the date of issuance of the Consummating Order.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the proposed agency action order. (K. Peña; Bedell)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.