



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

**DATE:** MAY 25, 2000

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

**FROM:** DIVISION OF LEGAL SERVICES (FORDHAM) *CF* *JK*  
DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*

**RE:** DOCKET NO. 000035-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST AMERICAN NETWORK EXCHANGE, INC. D/B/A AMNEX FOR APPARENT VIOLATION OF RULE 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES; AND FINE ASSESSMENT FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

**AGENDA:** 06/06/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\000035.RCM

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**CASE BACKGROUND**

- June 29, 1988 - American Network Exchange, Inc. d/b/a AMNEX (AMNEX) obtained Florida Public Service Commission Interexchange Telecommunications Certificate Number 1527.
- December 10, 1998 - The 1998 Regulatory Assessment Fee forms were mailed.
- March 23, 1999 - AMNEX paid its 1998 Regulatory Assessment Fees and reported revenues of \$534,845.00, but did not include statutory penalties and interest. In addition, AMNEX had not remitted the statutory penalty and interest charges for the late filing of its 1991 regulatory assessment fees.

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- August 2, 1999 - Staff mailed a certified letter to AMNEX requesting information pertaining to its operator service provider rates listed in its tariff. Staff requested a response by August 17, 1999. AMNEX did not respond to staff's inquiry.
- February 1, 2000 - The Commission approved staff's recommendation to order AMNEX to show cause why it should not be fined \$10,000 or have its certificate canceled for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries and \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. In addition, it required AMNEX to provide a written response to the requested information within ten business days of the issuance of the Order. The recommendation provided that the docket would remain open pending further show cause proceedings in the event AMNEX failed to provide a response to the requested information.
- February 2, 2000 - Staff received a letter from AMNEX stating that it had filed for Chapter 11 bankruptcy protection and all proceedings should be withdrawn. An Order based on the Commission's February 1, 2000, vote was, therefore, not issued.
- March 30, 2000 - AMNEX requested a voluntary cancellation of its certificate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission rescind its vote from the February 1, 2000 Agenda Conference and grant American Network Exchange, Inc. d/b/a AMNEX's request for cancellation of its IXC Certificate No. 1527?

**RECOMMENDATION:** Yes. The company had filed for bankruptcy protection prior to the Commission's vote. Therefore, the Commission should rescind its vote from the February 1, 2000 Agenda Conference, in which AMNEX's certificate was involuntarily canceled, and grant the company's request for cancellation of its IXC certificate with an effective date of June 30, 1999.  
**(Biegalski)**

**STAFF ANALYSIS:** On February 1, 2000, the Commission approved staff's recommendation to order AMNEX to show cause why it should not be fined \$10,000 or have its certificate canceled for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries and \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. Prior to staff issuing the Order, staff received a letter stating that AMNEX had filed for Chapter 11 bankruptcy protection, and, therefore, the show cause proceeding should be withdrawn. Therefore, an Order based on the Commission's vote was not issued. Thereafter, the company requested cancellation of its certificate.

AMNEX has not paid the statutory penalties and interest owed for the late filing of its 1991 and 1998 RAFs. Rule 25-4.0161, Florida Administrative Code, requires the payment of RAFs 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 April 27, 2000, the statutory penalties and interest for the late filing of its 1991 and 1998 RAFs remain unpaid.

The Commission is prevented by the automatic stay provision of the Bankruptcy Code from taking action against AMNEX at this time for the delinquent RAFs and for not responding to staff's inquiries. Although the Commission does not typically grant a voluntary 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

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Administration will be notified that the past due RAFs should not be sent to the Comptroller's Office for collection at this time.

Therefore, staff believes the Commission should rescind its vote from the February 1, 2000 Agenda Conference, in which AMNEX's certificate was involuntarily canceled, and grant the company's request for cancellation of its IXC certificate with an effective date of June 30, 1999.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, this docket should be closed upon issuance of the final Order and cancellation of the company's certificate.  
**(Fordham)**

**STAFF ANALYSIS:** This docket should be closed upon issuance of the final Order and cancellation of the company's certificate.