

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Bankruptcy cancellation by Florida  
Public Service Commission of IXC  
Registration No. TJ123 and CLEC Certificate  
No. 5314 issued to North American  
Telecommunications Corporation d/b/a  
Southeast Telephone Company, effective  
6/29/04.

DOCKET NO. 040633-TP  
ORDER NO. PSC-04-0889-PAA-TP  
ISSUED: September 13, 2004

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING BANKRUPTCY CANCELLATION

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.

On May 22, 2001, this Commission was notified that North American Telecommunications Corporation d/b/a Southeast Telephone Company had filed for Chapter 11 bankruptcy protection on February 23, 2001. The case was converted to a Chapter 7 bankruptcy proceeding on February 22, 2002. According to Commission records, this company has not paid the 2000, 2001, 2002, and 2003 Regulatory Assessment Fees, including statutory penalty and interest charges, for both certificates.

On June 21, 2004, our staff wrote Ms. Michelle G. Gershfeld, Attorney for the Trustee, and explained that the company had not paid its Regulatory Assessment Fees since 1999 and asked Ms. Gershfeld to write this Commission a letter requesting cancellation of its CLEC certificate and IXC registration if the company no longer existed. On June 29, 2004, this Commission received Ms. Gershfeld's letter requesting cancellation of the company's CLEC certificate and removal from the register of its IXC registration. In addition, Ms. Gershfeld

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requested that any unpaid Regulatory Assessment Fees be written-off as the company had no funds to pay the fees. This Commission is vested with jurisdiction over this matter pursuant to Sections 364.02, 364.336, 364.337, and 364.285, Florida Statutes.

Interexchange and competitive local exchange companies are subject to Section 364.336, Florida Statutes, which requires payment of Regulatory Assessment Fees by January 30 of the subsequent year for telecommunications companies, and Section 364.285, Florida Statutes, which authorizes this Commission to impose penalties for failure to comply with a lawful rule or order of this Commission or any provision of Chapter 364, Florida Statutes, including the failure to pay RAFs.

In this case, however, the company has filed for bankruptcy, and pursuant to Section 362(b)(4) of the Bankruptcy Code, the filing of a petition for bankruptcy relief acts as an automatic stay that enjoins a governmental entity from exercising its regulatory authority to collect a pre-petition debt. 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 Assessment 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. As such, this Commission would be prevented from collecting the RAFs owed by this company, and from assessing and collecting a penalty for failure to pay the RAFs.

Accordingly, we find that North American Telecommunications Corporation d/b/a Southeast Telephone Company shall be granted cancellation of its CLEC certificate (No. 5314) and IXC tariff (No. TJ123), be removed from the Commission's IXC register, and that any unpaid RAFs be written-off as uncollectible. In addition, the company should immediately cease and desist providing interexchange telecommunications services in Florida if it has not already done so.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that North American Telecommunications Corporation d/b/a Southeast Telephone Company shall be granted cancellation of its CLEC certificate (No. 5314) and IXC tariff (No. TJ123), shall be removed from the Commission's IXC register, and that any unpaid RAFs be written-off as uncollectible. It is further

ORDERED that the company should immediately cease and desist providing interexchange telecommunications services in Florida if it has not already done so.

By ORDER of the Florida Public Service Commission this 13th day of September, 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 )

JPR

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 October 4, 2004.

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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.