

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida
Public Service Commission of
Interexchange Telecommunications
Certificate No. 2653 issued to
Affinity Corporation d/b/a
Affinity Long Distance, Inc. for
violation of Rule 25-4.0161,
F.A.C., Regulatory Assessment
Fees; Telecommunications
Companies.

DOCKET NO. 010268-TI
ORDER NO. PSC-01-1109-PAA-TI
ISSUED: May 15, 2001

The following Commissioners participated in the disposition of
this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELING INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE
INVOLUNTARILY

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. -

Affinity Corporation d/b/a Affinity Long Distance, Inc.
(Affinity) currently holds Certificate of Public Convenience and
Necessity No. 2653, issued by the Commission on May 1, 1991,
authorizing the provision of Interexchange Telecommunications (IXC)
service. Affinity has not paid the Regulatory Assessment Fees
[RAF(s)] required by Section 364.336, Florida Statutes, and Rule

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FPSC-RECORDS/REPORTING

25-4.0161, Florida Administrative Code, for the year 2000 and has not provided a date certain the 2001 fee would be paid. Also, accrued statutory penalties and interest charges for the years 1991, 1992, 1994, 1996 and 2000 have not been paid.

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 Interexchange Telecommunications (IXC) service.

Pursuant to Section 350.113(4), Florida Statutes, the RAFs forms, for the period of January 1, through December 31, are mailed to the entities at least 45 days prior to the date that payment of the fee is due. Affinity was scheduled to remit its RAFs by January 30, 2001.

On February 23, 2001, the Commission received a letter from the company's president, Mr. Maurie Daigneau, which advised that the company had "surrendered all of its assets" to its secured lender, had ceased operations, and was no longer in business. Mr. Daigneau's letter stated that "there was no surplus available for unsecured creditors of Affinity, such as you." On February 27, 2001, Commission staff e-mailed Mr. Daigneau and asked if the company was requesting cancellation of its certificate. The company advised that it was requesting cancellation. Commission staff explained that a voluntary cancellation could not be recommended while there was an outstanding balance. As of April 10, 2001 the RAF remains unpaid.

Affinity has not complied with Rule 25-24.474(2), Florida Administrative Code, which states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

(a) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be cancelled.

(c) A statement on treatment of customer deposits and final bills.

(d) Proof of individual customer notice regarding discontinuance of service.

Accordingly, since the company's certificate remains active until it requests a voluntary cancellation pursuant to Rule 25-24.474(2), Florida Administrative Code, or we involuntarily cancel the certificate, Affinity is responsible for the RAFs. As of the date of the vote, Affinity continues to be in violation of our rules for nonpayment of RAFs for 2000.

For the reasons described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we deny Affinity's request for voluntary cancellation of Interexchange Telecommunications (IXC) Certificate No. 2653 for failure to comply with the provisions of Rule 25-24.474(2), Florida Administrative Code. However, we find it appropriate to involuntarily cancel Affinity's certificate, effective on the date of issuance of the Consummating Order, for failure to pay RAFs pursuant to Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. Affinity shall return to this Commission the Order granting authority to provide Interexchange Telecommunications (IXC) services.

Since Affinity is no longer in business, there would be no purpose in requiring Affinity to pay a fine. By involuntarily canceling Affinity's certificate, however, we would be able to track this company should it apply for another certificate with us in the future. The cancellation of the certificate and the closing of the Docket in no way diminishes Affinity's obligation to pay applicable delinquent RAFs, statutory penalties, and interest charges. The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336 and 364.285, Florida Statutes.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we hereby deny Affinity Corporation d/b/a Affinity Long Distance, Inc.'s request for voluntary cancellation of Interexchange Telecommunications (IXC) Certificate No. 2653. It is further

ORDERED that pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we hereby cancel Affinity Corporation d/b/a Affinity Long Distance, Inc.'s Interexchange Telecommunications (IXC) Certificate No. 2653, effective upon the issuance of the Consummating Order, for failure to comply with Rule 25-24.474(2), Florida Administrative Code; Section 364.336, Florida Statutes; and Rule 25-4.0161, Florida Administrative Code. It is further

ORDERED that Affinity Corporation d/b/a Affinity Long Distance, Inc. shall return to this Commission the Order granting authority to provide Interexchange Telecommunications (IXC) services. It is further

ORDERED that Affinity Corporation d/b/a Affinity Long Distance, Inc. remains obligated for all due and owing Regulatory Assessment Fees for the years 2000 and 2001, as well as accrued statutory penalties and interest charges. It is further

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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 15th
day of May, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

JAE

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

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Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 5, 2001.

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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.