

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for ) DOCKET NO. 961500-TI  
acknowledgement of transfer of ) ORDER NO. PSC-97-0164-FOF-TI  
assets of Automated ) ISSUED: February 13, 1997  
Communications, Inc. d/b/a AC )  
America, Inc. to Phoenix )  
Network, Inc./Phoenix Network, )  
Inc. d/b/a Office Depot )  
Communications and cancellation )  
of Interexchange )  
Telecommunications Certificate )  
No. 3143. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
JOE GARCIA  
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION  
ORDER ACKNOWLEDGING TRANSFER OF ASSETS  
AND CANCELLING INTEREXCHANGE  
TELECOMMUNICATIONS CERTIFICATE

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.

Pursuant to Section 364.33, Florida Statutes, a person may not acquire ownership or control of any telecommunications facility, or any extension thereof for the purpose of providing telecommunications services to the public, including the acquisition, transfer, or assignment of majority organizational control or controlling stock ownership, without prior approval from this Commission.

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On December 18, 1996, Automated Communications, Inc. d/b/a AC America, Inc. (ACI) and Phoenix Network, Inc./Phoenix Network, Inc. d/b/a Office Depot Communications (Phoenix) jointly notified this Commission of the transfer of assets from ACI to Phoenix and requested the cancellation of ACI's Interexchange Telecommunications Certificate Number 3143.

Pursuant to an Agreement and Plan of Merger, ACI has agreed to convey, and Phoenix agreed to acquire, all the assets and liabilities of ACI. ACI will cease doing business. The transfer of assets will not affect the services provided to ACI's customers. According to Phoenix and ACI, the acquisition is in the public interest because there will be no impairment or interruption of service to Florida subscribers. ACI's subscribers have been notified of the acquisition in writing by direct mail.

Upon consideration of the above, it appears that it is in the public interest to approve the transfer of assets from ACI to Phoenix and cancel ACI's Interexchange Telecommunications Certificate Number 3143.

ACI shall return its Interexchange Telecommunications Certificate Number 3143 to this Commission. In addition, under Section 364.336, Florida Statutes, certificate holders must pay a minimum annual regulatory assessment fee of \$50 if the certificate was active during any portion of the calendar year. A Regulatory Assessment Fee Return notice will be mailed to ACI; however, neither the cancellation of its certificate nor the failure to receive a Regulatory Assessment Fee Return notice shall relieve ACI from its obligation to pay due and owing regulatory assessment fees.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the joint request by Automated Communications, Inc. d/b/a AC America, Inc. and Phoenix Network, Inc./Phoenix Network, Inc. d/b/a Office Depot Communications for acknowledgement of a transfer of assets from Automated Communications, Inc. d/b/a AC America, Inc. to Phoenix Network, Inc./Phoenix Network, Inc. d/b/a Office Depot Communications is hereby granted. It is further

ORDERED that Automated Communications, Inc. d/b/a AC America, Inc.'s Interexchange Telecommunications Certificate Number 3143 is hereby cancelled. It is further

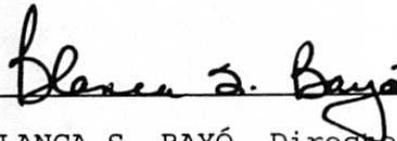
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ORDERED that Automated Communications, Inc. d/b/a AC America, Inc. shall return its certificate to this Commission and remit all due and owing regulatory assessment fees. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, 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.

By ORDER of the Florida Public Service Commission, this 13th day of February, 1997.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

KMP

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 or judicial review of Commission orders that is available under Sections 120.57 or 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 an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 6, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.