

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of Interexchange Telecommunications Certificate No. 2678 issued to Business Choice Network, Inc., for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees.

DOCKET NO. 971129-TI  
ORDER NO. PSC-97-1365-FOF-TI  
ISSUED: October 28, 1997

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER IMPOSING FINE AND REQUIRING PAYMENT OF  
REGULATORY ASSESSMENT FEES OR CANCELING  
INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE  
AND DIRECTING CERTIFICATED INTEREXCHANGE  
TELECOMMUNICATIONS PROVIDERS  
TO DISCONTINUE SERVICE

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.

Business Choice Network, Inc., (Business Choice) an interexchange telecommunications carrier (IXC), currently holds certificate of public convenience and necessity number 2678, issued by the Commission on July 24, 1991, authorizing the provision of interexchange telecommunications service. Business Choice has not paid the regulatory assessment fees required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code,

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for the years 1993, 1995 and 1996. The regulatory assessment fee form was mailed to Business Choice in December, 1992 for the period of January 1, 1993, through December 31, 1993. The regulatory assessment fee form was mailed to Business Choice in December, 1994 for the period of January 1, 1995, through December 31, 1995. The regulatory assessment fee form was mailed to Business Choice in December, 1995 for the period of January 1, 1996, through December 31, 1996. 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. Business Choice was notified of its delinquency on June 3, 1997. The company has been given adequate opportunity to pay. The Commission's correspondence regarding the regulatory assessment fees was signed for, indicating receipt. Yet, there has been no response, and, to date, Business Choice has not paid the required fees.

For the reason described above, pursuant to Rule 25-24.474(1)(b) and (c), Florida Administrative Code, we find it appropriate to cancel Business Choice's certificate, unless the company pays a \$500 fine for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, and remits all past due regulatory assessment fees, along with statutory penalties and interest charges, to the Florida Public Service Commission. Business Choice must comply with these requirements within 5 business days from the date this Order becomes final. The fine will be remitted to the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.516, Florida Statutes.

When the appropriate fees, statutory penalties, interest charges, and fine are received, this docket shall be closed. Should Business Choice fail to comply with this Order within 5 business days from the date this Order becomes final, Business Choice shall have its certificate canceled and the docket will be closed. The cancellation of the certificate and the closing of the docket in no way diminishes Business Choice's obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges.

Should Business Choice's certificate be canceled, all certificated interexchange carriers in the State of Florida are instructed to discontinue service to Business Choice, pursuant to Rule 25-24.4701(3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers

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Prohibited. Any certificated interexchange carriers providing service to Business Choice must contact the Commission at the conclusion of the response period indicated herein in order to determine if Business Choice's certificate has been canceled.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Business Choice Network, Inc., must pay the past due regulatory assessment fees, statutory penalties, interest charges, and a \$500 fine to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, within 5 business days from the date this Order becomes final. The fine will be transmitted to the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should Business Choice Network, Inc., fail to comply with this Order, Business Choice Network, Inc.'s certificate shall be canceled, and the docket shall be closed. It is further

ORDERED that the cancellation of the certificate and the closing of the docket in no way diminishes Business Choice Network, Inc.'s obligation to pay applicable delinquent regulatory assessment fees, statutory penalties, and interest charges. It is further

ORDERED that all certificated interexchange telecommunication providers shall discontinue service to Business Choice Network, Inc., upon verification of the cancellation of the certificate at the conclusion of the response period set forth in this Order. It is further

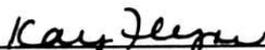
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, 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 upon payment of the fines, and fees, or upon cancellation of the certificate.

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By ORDEP of the Florida Public Service Commission, this 28th  
day of October, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

  
By: Kay Flynn, Chief  
Bureau of Records

( S E A L )

JRB

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.

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 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-

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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 November 18, 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.