

State of Florida



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~~

RECEIVED-TPSC
00 NOV 20 AM 11:25
RECORDS AND REPORTING

DATE: NOVEMBER 20, 2000
TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)
FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *PJK*
DIVISION OF LEGAL SERVICES (VAN LEUVEN) *DWC*
RE: DOCKET NO. 001263-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4799 ISSUED TO TELECARD COMMUNICATIONS INTERNATIONAL, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.480(2) (A) AND (B), F.A.C., RECORDS & REPORTS; RULES INCORPORATED.

DOCKET NO. 001282-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 3584 ISSUED TO ECS ENHANCED CELLULAR SYSTEMS NETWORK USA, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.480(2) (A) AND (B), F.A.C., RECORDS & REPORTS; RULES INCORPORATED.

AGENDA: 12/05/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001263.RCM

CASE BACKGROUND

Each of the telecommunications providers listed on page 6 were mailed the 1999 regulatory assessment fee (RAF) notice. When payment had not been received by the due date, the Division of Administration mailed a delinquent notice to the companies. As of

DOCUMENT NUMBER-DATE

14960 NOV 20 8

FPSC-RECORDS/REPORTING

November 15, 2000, none of the companies have paid the past due amount.

In addition, other correspondence to the companies listed on page 6 was returned by the United States Postal Service (USPS).

The Commission is vested with jurisdiction over this matter through the provision of Section 364.336 and Section 364.183, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel each company's respective certificate as listed on page 6 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's respective certificate as listed on page 6 if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on page 6 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (Isler)

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.474, Florida Administrative Code, establishes the requirements for cancellation of an interexchange telecommunications certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalty and interest charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Staff was notified by the Division of Administration that each of the interexchange telecommunications providers listed on page 6 had not paid their 1999 regulatory assessment fees, plus, statutory penalty and interest charges. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and have not requested cancellation of their certificates in compliance with Rule 25-24.474, Florida Administrative Code. This fine amount is consistent with amounts used for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel each company's respective certificate as listed on page 6 if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the certificate numbers listed on page 6 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should the Commission impose a \$500 fine or cancel each interexchange telecommunications company's respective certificate as listed on page 6 for apparent violation of Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's respective certificate as listed on page 6 if the information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and required information are not received, the certificate numbers listed on page 6 should be canceled administratively. (Isler)

STAFF ANALYSIS: Pursuant to Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated, each company is allowed ten days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to each company listed on page 6 was returned to the Commission by the USPS. It is been well over ten days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor have any of the companies listed on page 6 requested cancellation of their certificates in compliance with Rule 25-24.474, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel each company's respective certificate as listed on page 6 if the information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and required information are not received, the certificate numbers listed on page 6 should be canceled administratively.

ISSUE 3: Should these dockets be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final upon issuance of a consummating order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. The dockets should then be closed upon receipt of the fines, fees, and required information or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (Van Leuven)

STAFF ANALYSIS: Whether staff's recommendation on Issues 1 and 2 are approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, these dockets should be closed upon issuance of a Consummating Order and upon receipt of the fines, fees, and required information or cancellation of the certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

DOCKET NOS. 001263-TI, 001282-TI
DATE: NOVEMBER 20, 2000

| <u>DOCKET NO.</u> | <u>PROVIDER</u> <u>LAST REPORTED REVENUES & PERIOD COVERED</u> | <u>CERT.</u> <u>NO.</u> | <u>RAFs</u> | <u>P and I</u> |
|-------------------|---|----------------------------|-------------|----------------|
| 001263-TI | TeleCard Communications International 1998 Revenues - \$0 For the Period Ended 12/31/98 | 4799 | 1999 | 1998 1999 |
| 001282-TI | ECS Enhanced Cellular Systems Network 1998 Revenues - \$0 For the Period Ended 12/31/98 | 3584 | 1999 | 1999 |