

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: FEBRUARY 5, 2004

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pic*
OFFICE OF THE GENERAL COUNSEL (MCKAY) *usm* *pl* *pm*

RE: DOCKET NO. 030821-TI - CANCELLATION OF TARIFF AND REMOVAL
FROM REGISTER BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC
REGISTRATION NO. TJ658 ISSUED TO COMMUNITEL INTERNATIONAL,
LLC FOR VIOLATION OF SECTION 364.336, FLORIDA STATUTES.

AGENDA: 02/17/04 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030821.RCM

CASE BACKGROUND

- **06/17/02** - This company obtained Florida Public Service Commission Interexchange Telecommunications Registration No. TJ658.
- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003.
- **02/21/03** - The Office of the General Counsel sent a delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on February 24, 2003.

DOCUMENT NUMBER-DATE

01704 FEB-53

FPSC-COMMISSION CLERK

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- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid the 2002 RAF.
- **04/28/03** - Staff wrote the company and explained that payment for the RAF needed to be paid by May 19, 2003, to avoid an enforcement docket from being established.
- **08/15/03** - Payment was not received; therefore, this docket was established.
- **08/21/03** - Mr. Frank Babusik, Chief Operating Officer, called staff and stated he wanted to resolve this docket and asked for a copy of the 2002 RAF return form. Mr. Babusik stated the company did not have any customers. Staff faxed the requested information the same date.
- **09/30/03** - The Commission received the company's payment for the 2002 RAF, including statutory late payment charges, along with a letter requesting cancellation of its tariff and removal from the register. The company reported no revenues for the period ended December 31, 2002.
- **01/06/04** - The Commission received the company's payment for the 2003 RAF. The company reported no revenues for the period ended December 31, 2003.
- **01/27/04** - As of this date, the company does not have any outstanding consumer complaints.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.02, 364.336, and 364.285, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Communitel International, LLC a voluntary removal from the register of IXC Registration No. TJ658 and cancel its tariff?

RECOMMENDATION: The Commission should grant Communitel International, LLC a voluntary removal from the register of IXC Registration No. TJ658 and cancel its tariff with an effective date of September 30, 2003. If the tariff is cancelled and the company's name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange service in Florida. **(Isler; McKay)**

STAFF ANALYSIS: 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 late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of the Commission Clerk & Administrative Services notified staff that the company had not submitted the 2002 Regulatory Assessment Fees, along with statutory late payment charges. Therefore, it appeared the company had failed to comply with Section 364.336, Florida Statutes, and had not requested cancellation of its tariff or removal from the register in compliance with Section 364.02, Florida Statutes.

Staff wrote the company attempting collection of the RAFs prior to establishing a docket without success. After the docket was established but prior to a recommendation being filed, the company paid the past due amount in full, including statutory late payment charges, paid the 2003 RAF, and requested removal from the register of its IXC Registration No. TJ658 and cancellation of its tariff.

Accordingly, staff believes the Commission should grant Communitel International, LLC a voluntary removal from the register of IXC Registration No. TJ658 and cancel its tariff with an effective date of September 30, 2003. If the tariff is cancelled and the company's name removed from the register in accordance with the Commission's Order from this recommendation, the company should

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be required to immediately cease and desist providing intrastate interexchange service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: 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 issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order. **(McKay)**

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is 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, this docket should be closed upon issuance of a Consummating Order.