

REQUEST TO ESTABLISH DOCKET  
(PLEASE TYPE)

Date: October 11, 1996

Docket No. 961233-TI

1. Division Name/Staff Name: Communications/T. Williams

2. OPR: T. Williams

3. OCR: \_\_\_\_\_

4. Suggested Docket Title: Initiation of show cause proceeding against FOX FIBER OPTICS for violation of Rules 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, and 25-4.003, F.A.C., Response to Commission Staff Inquiries.

5. Suggested Docket Mailing List (attach separate sheet if necessary)

- A. Provide NAMES ONLY for regulated companies or ACRONYMS ONLY regulated industries, as shown in Rule 25-22.104, F.A.C.
- B. Provide COMPLETE name and address for all others. (Match representatives to clients.)

1. Parties and their representatives (if any)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

2. Interested Persons and their representatives (if any)

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

6. Check one:

Documentation is attached.

Documentation will be provided with the recommendation.

State of Florida

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



*Tommy*  
DIVISION OF COMMUNICATIONS  
WALTER D'HAESELEER  
DIRECTOR  
(904) 413-6600

## Public Service Commission

July 18, 1996

Certified

Mr. Dennis Marshall  
FOX FIBER OPTICS  
616 Dillard  
Winter Garden, FL 34787

RE: Certification in Florida

Dear Mr. Marshall:

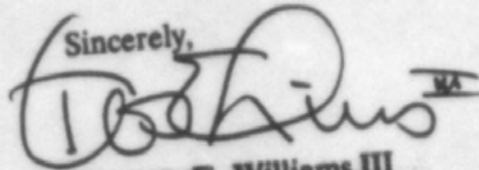
As of this date, we have not received a response or the information requested in my May 31, 1996 letter (attached). Therefore, since it appears that Fox Fiber Optics may be operating in Florida without a Certificate pursuant to Rule 25-24.4701 (3), F.A.C., Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited;

(3) The Commission, upon making a determination that a customer of an interexchange company is unlawfully reselling or rebilling intrastate interexchange service may issue an order that directs the customer to cease and desist reselling or rebilling such service and simultaneously directs the interexchange company to discontinue providing such service to such customer and/or to cease providing service to such customer at additional locations within Florida, provided that such discontinuance or limitation of service is technically feasible within the context of existing facilities and technology,

staff will recommend that the Commission order all certificated IXC's to discontinue providing intrastate long distance service to Fox Fiber Optics.

Mr. Dennis Marshall  
July 18, 1996  
page two

If you have any questions, I may be reached at (904) 413-6586.

Sincerely,  
  
Thomas E. Williams III  
Engineer  
Bureau of Service Evaluation

TEW/tew

cc: TMS #1778

attachments

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
 Mr. Dennis Marshall  
 FOX FIBER OPTICS  
 616 Dillard  
 Winter Garden, FL 34787

4a. Article Number  
 P-263-573-127

4b. Service Type  
 Registered  Certified  
 Express Mail  Insured  
 Return Receipt for Merchandise  COD

7. Date of Delivery 7/26/86

5. Received By: (Print Name)  
*Spet. Clayton*

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)  
 X *[Signature]*

Thank you for using Return Receipt Service.

Commissioners:

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



DIVISION OF COMMUNICATIONS  
WALTER D'HAESELEER  
DIRECTOR  
(904) 413-6600

## Public Service Commission

May 31, 1996

**Certified**

Mr. Dennis Marshall  
FOX FIBER OPTICS  
616 Dillard  
Winter Garden, FL 34787

RE: Certification in Florida

Dear Mr. Marshall:

It has been brought to our attention that you could be providing one or more of the following interexchange telecommunication services (IXC):

- (FBC) **Facilities based carrier** - company owns and operates or plans to own and operate telecommunications switches and transmission facilities in Florida.
- (OSP) **Operator Service Provider** - company provides or plans to provide alternative operator services for pay phone, hospital, hospitality industry, public lodging or confinement facility locations; or clearinghouse services to bill such calls.
- (RES) **Reseller** - company has or plans to have one or more switches but primarily leases the transmission facilities of other carriers. Bills its own customer base for services used.

Mr. Marshall  
page 2  
May 31, 1996

(SWR) **Switchless rebiller** - company has no switch or transmission facilities but may have a billing computer. Aggregates traffic to obtain bulk discounts from underlying carrier. Rebills end users at a rate above its discount but generally below the rate end users would pay for unaggregated traffic.

(MLDA) **Multi-Location discount aggregator** - any person or entity that contracts with unaffiliated entities to aggregate traffic to obtain discounts from any interexchange company.

First, without a Certificate of Public Convenience and Necessity from this Commission to operate as an interexchange telecommunication company, Fox Fiber Optics (Fox) cannot charge or collect any type of upfront fees (connection or sign up fees); nor can Fox hold itself out as a provider of telecommunications services; nor can Fox bill in its name for any intrastate telecommunication services. This includes the multi-location discount aggregator plans offered by certain underlying carriers, such as AT&T.

If Fox contracts with unaffiliated entities to obtain bulk/volume discounts under multi-location discount plans from certain underlying carriers, such as AT&T, Fox would need to be certificated in Florida, to meet the directives as stated in Commission Rule 25-24.470(2), F.A.C., Certificate of Public Convenience and Necessity Required.

It is recognized that the customer may receive all billing from the MLDA, or billing may continue from the primary IXC, or the MLDA may submit a separate bill for a share of the customer's savings from the discounted rate. However, the MLDA's use of a discount rebate schedule, which allows it to keep a portion of the volume discount acquired from the IXC, constitutes an indirect payment to the MLDA from the customer. Further, the largest carriers such as AT&T, Sprint, and MCI consider the end user subscribers to be joint customers of the IXC and the MLDA.

Mr. Marshall  
May 31, 1996  
page 3

**Second**, registration with the Secretary of State, Division of Corporations to conduct business in Florida is required. You may contact them at (904) 487-6051 for further information on registration/qualification.

**Third**, any deposits taken from other companies for telecommunications services in Florida should be refunded.

**Fourth**, since Fox is not certificated to conduct intrastate telecommunication service in Florida, Fox cannot bill or collect for any intrastate telecommunication services performed in Florida. Therefore, please complete the enclosed application and return by **June 28, 1996**.

Failure to respond in a timely manner may result in legal action. Further, if it is ultimately determined that Fox has violated either Sections 364.33 and 364.335, Florida Statutes or Rule 25-24.470, Certificate of Public Convenience and Necessity Required, Florida Administrative Code, it could be subject to a fine of up to \$25,000.00 for each offense pursuant to Section 364.285, Penalties, Florida Statutes, for every day it was in violation.

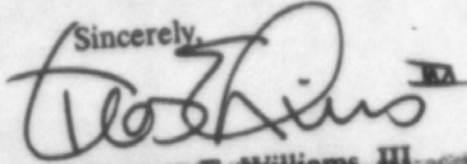
Further, if you fail to respond to this letter and it is determined that Rule 25-24.4701 (3), Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited, Florida Administrative Code, has been violated, a recommendation will be made to the Commission to order all certificated interexchange telecommunication companies in Florida to discontinue providing intrastate telecommunication service to Fox.

This correspondence represents an interpretation by the staff of the Florida Public Service Commission regarding the statutes and rules which appear to apply to your circumstances. It is provided for your convenience and is not a formal decision by the Commission. Any formal determination of your substantial interests regarding matters within the jurisdiction of this Commission will be made pursuant to the provisions of Chapter 120, Florida Statutes and Chapter 25-22, Florida Administrative Code.

Mr. Marshall  
May 31, 1996  
page 4

If you have any questions, I may be reached at (904) 413-6586.

Sincerely,



~~Thomas E. Williams, III~~  
Engineer  
Bureau of Service Evaluation

TEW:tew

cc: Hunt, United Telephone



18/96 13:05 800.000 487.843 4846  
4878775408  
1-18-96 8:18 PM FOX FIBEROPTICS

NO. 418 P. 02  
904-413-6557



Post-Net Fax Name	7871	NO.	418
TO	John	NAME	RUSS
FROM		CO.	
PHONE		PHONE	
FAX		FAX	

April 18, 1996

Russ Ramaki  
The Shorewood Group  
1235 Mt. Vernon Street  
Orlando, FL 32803

Dear Russ:

To verify your conversation yesterday, April 17, 1996, FOX Fiber Optics will offer your company the following rates for your company's long distance service:

10.0 cpm for interstate, intrastate, long distance and 800 service with no monthly service fee.

The charging intervals for these rates will be 6 seconds upon connection, and then each 5 seconds thereafter.

The above rates are 24 hours a day, 7 days a week.

FOX Fiber Optics guarantees to maintain the above rates for lifetime as long as your billing remains current.

Russ, thank you for your confidence in FOX Fiber Optics. We welcome this opportunity to serve your communications requirements. If you have any questions, please call me at 877-5400 ext. 413.

Sincerely,

By: Dennis Marshall  
For: FOX Fiber Optics  
FOX: Authorized Representative

Tel 407-658-5800 or 800-407-4000 • 616 Dillard • Winter Garden, FL • 32787 • Fax 407-658-5800 or 800-211-1557  
407-658-5800 800-407-4000 616 Dillard, Winter Garden, FL 32787  
23



**United Telephone of Florida**

**A Sprint Company**

Box 165000

Altamonte Springs, Florida 32716-5000

Facsimile Numbers

(407) 884-7020

**FACSIMILE TRANSMITTAL COVER SHEET**

Date 5/29/96

Time 10:50 AM

Number of pages including this page 2

To Low Williams

Location (city/state) \_\_\_\_\_

Telephone Number \_\_\_\_\_

Facsimile Telephone Number 904-413-6587

From Low Hunt

Department \_\_\_\_\_

Telephone Number 407-289-6257

Special Instructions Let me know if you can't read this - I'd like a copy of the correspondence you send/receive.

PLEASE NOTE: IF YOU ENCOUNTER ANY PROBLEMS DURING TRANSMISSION, PLEASE CALL

(407) 889-6406  
(407) 889-6406

100001

MAY 28 10:51AM SPRINT UNITED

Is your RETURN ADDRESS completed on this reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
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- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:  
**Mr. Dennis Marshall**  
**FOX FIBER OPTICS**  
**616 Dillard**  
**Winter Garden, FL 34787**

4a. Article Number  
**P234-957-252**

4b. Service Type  
 Registered       Insured  
 Certified       COD  
 Express Mail       Return Receipt for Merchandise

7. Date of Delivery  
**6/5/96**

5. Signature (Addressee)  
 6. Signature (Agent)  
*Janet Newton*

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.