

Talbott : *WJ*

Vandiver: *DE HT PV*

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

July 24, 1997

RECEIVED

JUL 23 1997

10:40
FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KS*
DIVISION OF LEGAL SERVICES (CULPEPPER) *AC MCB*

RE: DOCKET NO. 970776-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 3588 ISSUED TO CARIBBEAN TELEPHONE AND TELEGRAPH, INC. D/B/A TLC - THE LONG DISTANCE COMPANY FOR VIOLATION OF RULE 25-4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF INQUIRIES, AND RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEE.

AGENDA: 08/05/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CIRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/970776TI.RCM

CASE BACKGROUND

- Caribbean Telephone and Telegraph, Inc. d/b/a TLC - The Long Distance Company (Caribbean) obtained Florida Public Service Commission Interexchange Telecommunications certificate number 3588 on October 21, 1994.
- Caribbean filed for Chapter 11 bankruptcy on April 5, 1996. The case was converted from Chapter 11 to Chapter 7 bankruptcy on March 31, 1997. (Attachment A)
- Staff mailed a certified letter to Caribbean on March 17, 1997, to determine the status of Caribbean's operations. This letter was returned by the U.S. Postal Service stamped "refused". (Attachment B)

DOCUMENT NUMBER: 07388

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- Staff mailed a second certified letter to Caribbean on April 29, 1997. This letter was signed for and received on May 7, 1997, but to date staff has not received a response. (Attachment C)
- Staff attempted unsuccessfully to reach Caribbean by calling the telephone number found for Caribbean on the internet. This number has been disconnected. The Master Commission Directory has only a fax number listed for Caribbean. Staff attempted to fax the letter to Caribbean. The fax number was not answered.
- On June 5, 1997, staff was notified by the Division of Administration that Caribbean has not submitted its regulatory assessment fees for 1996.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission cancel Caribbean Telephone and Telegraph, Inc. d/b/a TLC - The Long Distance Company's Interexchange Telecommunications Certificate No. 3588 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, and Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

RECOMMENDATION: Yes. Staff recommends the Commission cancel certificate number 3588 issued to Caribbean at the conclusion of the protest period for apparent violation of Rule 25-4.043, Florida Administrative Code and Rule 25-4.0161, Florida Administrative Code in lieu of a fine. (Biegalski)

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 telephone company (IXC) certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Mail sent to Caribbean has been signed for and received, but to date staff has not received a response. Caribbean's telephone number has been disconnected. In addition, on June 5, 1997, staff learned that Caribbean had not submitted the regulatory assessment

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fees for 1996, or applicable statutory penalties and interest. Therefore, Caribbean is in apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, and Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees. However, due to the status of Caribbean's operations, staff believes it is unlikely the Commission will receive any delinquent regulatory assessment fees. Therefore, staff recommends the Commission cancel certificate number 3588 issued to Caribbean at the conclusion of the protest period.

ISSUE 2: Should the Commission order all certificated interexchange companies (IXCs) to discontinue providing interexchange telecommunications service to Caribbean pursuant to Rule 25-24.4701(3), Florida Administrative Code, if certificate number 3588 is canceled?

RECOMMENDATION: Yes. Pursuant to Rule 25-24.4701(3), Florida Administrative Code, the Commission should order all certificated IXCs to discontinue providing interexchange telecommunications service to Caribbean if Caribbean's certificate is canceled at the conclusion of the protest period in this docket. The Order should state that any IXC providing service to Caribbean must contact the Commission at the conclusion of the protest period as set forth in the Order to determine whether the certificate has been canceled. (Biegalski)

STAFF ANALYSIS: Rule 25-24.4701(3), Florida Administrative Code, states in part:

(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.

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If Caribbean's certificate is canceled, any intrastate interexchange service offered by Caribbean would be in violation of Rule 25-24.474, Florida Administrative Code. Since the Commission cannot readily identify which IXC provides service to Caribbean, the Commission should order all certificated IXCs to discontinue service to Caribbean. The Order should state that any IXC providing service to Caribbean must contact the Commission at the conclusion of the protest period as set forth in the Order to determine whether the certificate has been canceled.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, Caribbean's certificate should be canceled and the docket should be closed. (Culpepper)

STAFF ANALYSIS: Unless a person whose substantial interests are affected by the Commission's order files a protest within 21 days of the issuance date of the Order, Caribbean's certificate should be canceled and this docket should be closed.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
BANKRUPTCY COURT

IN RE:

CARIBBEAN TELEPHONE & TELEGRAPH, INC.,
Debtor.

Case No. 96-66519-R

- Chapter 11

ORDER CONVERTING CHAPTER 11 CASE TO CHAPTER 7

A Motion to Convert Case to Chapter 7 was filed and a hearing was held on March 31, 1997. For the reasons stated on the record in open court,

IT IS ORDERED that this case is converted to Chapter 7.

IT IS FURTHER ORDERED that within 30 days, the debtor shall file a final report and account, a schedule of current debts, a schedule of executory contracts, and a schedule of property acquired after the commencement of the case.

IT IS FURTHER ORDERED that within 10 days, the debtor shall file a supplemental matrix of the names and addresses of the Chapter 11 administrative creditors.

If the debtor fails to comply with this order, appropriate sanctions may be imposed, including the imposition of costs or dismissal of the case without a hearing or denial of the discharge.

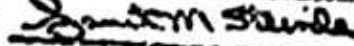


STEVEN W. RHODES
U.S. Bankruptcy Judge

Entered: **MAR 31 1997**

cc: Debtor
Arnold Schafer
U.S. Trustee
Steven Howell

A TRUE COPY
CLERK, U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

BY: 
Deputy Clerk

DATE: **MAR 31 1997**

ATTACHMENT B
DOCKET NO. 970778-T1
JULY 24, 1997

State of Florida
Security Commission

40 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

CERTIFIED

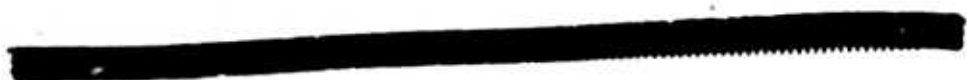
- P 234 963 857





MAIL

RETURN TO SENDER
BEFORE CHECKED
Machines...
Addresses...
No two street...
Be such office...
Do not re-mail in this envelope

Caribbean Telephone & Telegraph
1249 Washinton Blvd
Detroit, MI 48226



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. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
	3. Article Addressed to: Mr. Tracey Pigg Caribbean Telephone & Telegraph 1249 Washington Blvd., Suite 2015 Detroit, MI 48226	4a. Article Number P234 961 362
	5. Received by: (Print Name) 	4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
	6. Signature: (Addressee or Agent) 	7. Date of Delivery 5-2-97 8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.