



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-

DATE: FEBRUARY 4, 1999

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Aji*
DIVISION OF LEGAL SERVICES (K. PEÑA) *etc*
KMP INB

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

DOCKET NO. 981715-TI - AMERICAN EXPRESS TELECOM, INC.
DOCKET NO. 981720-TI - NATIONAL CALLING PLAN, INC.
DOCKET NO. 981731-TI - FLORIDA/U.S. DIGITAL NETWORKS, INC.
DOCKET NO. [REDACTED] - BN1 TELECOMMUNICATIONS, INC.
DOCKET NO. 981738-TI - BUEHNER-FRY, INC. D/B/A RESORT OPERATOR SERVICES AND D/B/A DIRECTDIAL USA

AGENDA: 02/16/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981715.RCM

CASE BACKGROUND

1.) Docket #981715-TI - American Express Telecom, Inc. - This company obtained Certificate No. 4085 on 10/25/95. The Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt which showed the RAF notice was signed for and delivered on December 15, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

RAFs, plus statutory penalties and interest for the year 1997. As of January 27, 1999, the company has not paid the past due amount.

2.) Docket #981720-TI - National Calling Plan, Inc. - This company obtained Certificate No. 3982 on 04/15/95. The Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the RAF notice was signed for and delivered on December 15, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the year 1997. As of January 27, 1999, the company has not paid the past due amount.

3.) Docket #981731-TI - Florida/U.S. Digital Networks, Inc. - This company obtained Certificate No. 3564 on 07/06/94. The Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the RAF notice was signed for and delivered on December 15, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the year 1997. As of January 27, 1999, the company has not paid the past due amount.

4.) Docket #981732-TI - BN1 Telecommunications, Inc. - This company obtained Certificate No. 3567 on 07/19/94. The Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the RAF notice was signed for and delivered on December 17, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the years 1994, 1995, and 1997. As of January 27, 1999, the company has not paid the past due amount.

5.) Docket #981738-TI - Buehner-Fry, Inc. d/b/a Resort Operator Services and d/b/a Directdial USA - This company obtained Certificate No. 3961 on 01/04/95. The Division of Administration sent the 1997 RAF notice by certified mail. The USPS returned the receipt which showed the RAF notice was signed for and delivered on December 15, 1997. The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest for the years 1995 and 1997. As of January 27, 1999, the company has not paid the past due amount.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel the interexchange telecommunications certificates issued to each company listed on page 5 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 certificate as listed on page 5 if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within five business days after the conclusion of the 21 day protest period. 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 penalties and interest, are not received, the interexchange telecommunications certificate numbers listed on page 5 should be canceled with an effective date of December 31, 1998. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest 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 5 had not paid their 1997 regulatory assessment fees, plus statutory penalties and interest. Therefore, the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the companies respective certificate numbers if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within five business days after the conclusion of the 21 day protest period. 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

DOCKET NOS. 981715-TI, 981720-TI, 981731-TI, 981732-TI, 981738-TI
DATE: FEBRUARY 4, 1999

assessment fees, including statutory penalties and interest, are not received, the certificate numbers listed on page 5 should be canceled with an effective date of December 31, 1998.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: Yes, if no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of the certificate, these dockets should be closed. A protest in one docket should not prevent the action in a separate docket from becoming final. (K. Peña)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. 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 payment of the fines and fees, or upon cancellation of the certificates. A protest in one docket should not prevent the action in a separate docket from becoming final.

DOCKET NOS. 981715-TI, 981720-TI, 981731-TI, 981732-TI, 981738-TI
DATE: FEBRUARY 4, 1999

<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>CERTIFICATE NO.</u>	<u>RAFs</u>	<u>P and I</u>
981715-TI	American Express Telecom, Inc.	4085	1997	1997
981720-TI	National Calling Plan, Inc.	3982	1997	1997
981731-TI	Florida/U.S. Digital Networks, Inc.	3564	1997	1997
981732-TI	BN1 Telecommunications, Inc.	3567	1997	1994 1995 1997
981738-TI	Buehner-Fry, Inc. d/b/a Resort Operator Services and d/b/a Directdial USA	3961	1997	1995 1997