



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

DATE: DECEMBER 5, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *dji*
OFFICE OF THE GENERAL COUNSEL (W. KNIGHT; L. FORDHAM; TEITZMAN; DODSON) *WJK*

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

AGENDA: 12/17/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020735.RCM

CASE BACKGROUND

This recommendation deals with the enforcement actions against interexchange carriers (IXCs) for nonpayment of the Regulatory Assessment Fees (RAFs). Staff is recommending that first time offenders be penalized \$500 and second time offenders be penalized \$1,000.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. The following docket numbers are addressed by this recommendation.

DOCKET NOS. 020735-TI, 020756-TI, 020955-TI, 021160-TI, 021162-TI, 020675-TI
DATE: DECEMBER 5, 2002

Issue 1 - 1st Time IXC Offenders - Nonpayment of RAFs - \$500 Penalty

DOCKET NO. 020735-TI - MAXTEL USA, INC.
DOCKET NO. 020756-TI - INTELLIGENT SWITCHING AND SOFTWARE, LLC
DOCKET NO. 020955-TI - BLEGBI, INC.
DOCKET NO. 021160-TI - CALPOINT (FLORIDA), LLC
DOCKET NO. 021162-TI - TALKNOW, INC.

Issue 2 - 2nd Time IXC Offender - Nonpayment of RAFs - \$1,000 Penalty

DOCKET NO. 020675-TI - EASY PHONE, INC. D/B/A EASY TEL, INC.

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1st Time IXC Offenders - Nonpayment of RAFs - \$500 Penalty

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 a company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing interexchange telecommunications services in Florida. (Isler; W. Knight; L. Fordham; Teitzman; Dodson)

STAFF ANALYSIS: Each of the telecommunications providers listed on Attachment A had not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. Staff wrote each of the companies listed on Attachment A in an attempt to bring the companies into compliance with the RAF rule. No payment or response was received, therefore, dockets were established. Only one company, Intelligent Switching and Software, LLC in Docket No. 020756-TI, paid the past due amount. Staff wrote the company

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another letter and explained that in addition to requiring any past due balance, the company should either propose a settlement to resolve the docket or request cancellation of its certificate. No further response was received. The other companies listed on Attachment A have not paid their 2001 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, incorporated by Rule 25-24.480, Florida Administrative Code, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.474, Florida Administrative Code. The penalty amount recommended in these dockets is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 a company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be

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required to immediately cease and desist providing interexchange telecommunications services in Florida.

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2nd Time IXC Offender - Nonpayment of RAFs - \$1,000 Penalty

ISSUE 2: Should the Commission impose a \$1,000 penalty or cancel Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should assess a \$1,000 penalty or cancel Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B, is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing interexchange telecommunications services in Florida. (Isler; Dodson)

STAFF ANALYSIS: Easy Phone, Inc. d/b/a Easy Tel, Inc., as listed on Attachment B, has not paid its 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. This is the second docket opened against the company for nonpayment of the RAF. In the prior docket, Easy Phone, Inc. d/b/a Easy Tel, Inc., as listed on Attachment B, paid a settlement amount to resolve the docket. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees;

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Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and has not requested cancellation of its certificate in compliance with Rule 25-24.474, Florida Administrative Code. The penalty amount recommended in this docket is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a \$1,000 penalty or cancel Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 company does not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If Easy Phone, Inc. d/b/a Easy Tel, Inc.'s certificate as listed on Attachment B, is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing interexchange telecommunications services in Florida.

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ISSUE 3: Should these dockets be closed?

RECOMMENDATION: The Orders issued from these recommendations will become final upon issuance of Consummating Orders, 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 Orders. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (W. Knight; L. Fordham; Teitzman; Dodson)

STAFF ANALYSIS: Whether staff's recommendations on Issues 1 and 2 are approved or denied, the result will be Proposed Agency Action Orders. If no timely protests to the Proposed Agency Actions are filed within 21 days of the date of issuance of the Orders, these dockets should be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

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Issue 1 - 1st Time IXC Offenders - Nonpayment of RAFs - \$500 Penalty

<u>DOCKET NO.</u>	<u>PROVIDER</u> <u>LAST REPORTED REVENUES &</u> <u>PERIOD ENDED</u>	<u>CERT.</u> <u>NO.</u>	<u>RAFs</u>	<u>Penalty</u> <u>and</u> <u>Interest*</u>
020735-TI	Maxtel USA, Inc. No Previous Return Filed	7723	2001	2001
020756-TI	Intelligent Switching and Software, LLC \$0 Revenues for Period Ended 12/31/01	7906	2001	2001
020955-TI	Blegbi, Inc. \$0 Revenues for Period Ended 12/31/00	7163	2001	2000 2001
021160-TI	Calpoint (Florida), LLC No Previous Return Filed	7969	2001	2001
021162-TI	TalkNow, Inc. No Previous Return Filed	7979	2001	2001

*Years penalty and/or interest was not paid

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Issue 2 - 2nd Time IXC Offender - Nonpayment of RAFs - \$1,000 Penalty

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020675-TI	Easy Phone, Inc. d/b/a Easy Tel, Inc. \$0 Revenues for Period Ended 12/31/00	4773	2001	2001

*Years penalty and/or interest was not paid