



Public Service Commission

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PAC C.J.F. for BK

DATE: SEPTEMBER 25, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) PJC
OFFICE OF THE GENERAL COUNSEL (DODSON; CHRISTENSEN) PAC C.J.F. for BK

RE: CANCELLATION OF TARIFF AND REMOVAL FROM REGISTER BY
FLORIDA PUBLIC SERVICE COMMISSION OF IXC REGISTRATION FOR
VIOLATION OF SECTIONS 364.336 AND 364.02, FLORIDA
STATUTES.

AGENDA: 10/07/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030759.RCM

CASE BACKGROUND

This recommendation deals with the enforcement actions against intrastate interexchange telecommunications companies (IXCs) for nonpayment of the Regulatory Assessment Fees (RAFs) and not providing the Commission with updated reporting requirements. Staff is recommending that first time offenders for both statute violations be penalized \$1,000 and the second time offenders be penalized \$1,500.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.02, Florida Statutes. The following docket numbers are addressed by this recommendation.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

DOCKET NOS. 030759-TI & OTHERS
DATE: SEPTEMBER 25, 2003

**1st Time Offenders - Nonpayment of RAFs and Reporting Requirements
Violation - \$1,000 Penalty**

DOCKET NO. 030759-TI - ZENEX LONG DISTANCE, INC.
DOCKET NO. 030768-TI - IG2, INC.
DOCKET NO. 030769-TI - U.S. OPERATORS, INC.
DOCKET NO. 030773-TI - PDS, INC. D/B/A PHONE DEBIT SYSTEMS, INC.
DOCKET NO. 030777-TI - SATCOM COMMUNICATION CORPORATION D/B/A
SATCOM COMMUNICATION
DOCKET NO. 030788-TI - FAR EAST GATEWAY, INC.
DOCKET NO. 030797-TI - CITYCOM TELECOMMUNICATIONS, INC.
DOCKET NO. 030803-TI - GLOBAL BUSINESS SOLUTIONS AND SERVICES,
INC.

**2nd Time Offenders - Nonpayment of RAFs (2nd Violation) and Reporting
Requirements Violation - \$1,500 Penalty**

DOCKET NO. 030762-TI - OMNIPLEX COMMUNICATIONS GROUP, LLC
DOCKET NO. 030771-TI - COMTEL NETWORK LLC

DISCUSSION OF ISSUES

1st Time Offenders - Nonpayment of RAFs and Reporting Requirements Violation - \$1,000 Penalty

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each statute violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment A, for apparent violation of Sections 364.336 and 364.02, Florida Statutes?

RECOMMENDATION: The Commission should impose a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment A, for apparent violation of Sections 364.336 and 364.02, Florida Statutes, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the reporting requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and reporting requirements are not received, that company's tariff should be cancelled and the company removed from the register administratively, as listed on Attachment A, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment A, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If any of the companies listed on Attachment A have their respective tariff cancelled and name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding penalties and RAF, including statutory penalty and interest charges. **(Isler; Dodson)**

STAFF ANALYSIS: Each of the companies listed on Attachment A have not paid their 2002 Regulatory Assessment Fees, plus statutory penalty and interest charges, in compliance with Section 364.336, Florida Statutes.

In addition, each of the companies listed on Attachment A have had returned mail and have not updated the reporting requirements of the change of their respective address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Staff attempted to call each company, but was unsuccessful. Therefore, it appears the companies listed on Attachment A have failed to comply with Sections 364.336 and 364.02, Florida Statutes, and have not requested cancellation of their respective tariffs or removal from the register. 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 tariff and removal from the register does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the company was registered during any portion of the calendar year, including the year of removal from the register.

Accordingly, staff recommends that the Commission assess a total penalty of \$1,000 (\$500 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment A, for apparent violation of Sections 364.336 and 364.02, Florida Statutes, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the reporting requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and reporting requirements are not received, that company's tariff should be cancelled and the company removed from the register administratively, as listed on Attachment A, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment A, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If any of the companies listed on Attachment A have their respective tariff cancelled and name removed from the register, and subsequently decides to reapply for registration as

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an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding penalties and RAF, including statutory penalty and interest charges.

2nd Time Offenders - Nonpayment of RAFs (2nd Violation) and Reporting Requirements Violation - \$1,500 Penalty

ISSUE 2: Should the Commission impose a total penalty of \$1,500 (\$1,000 for RAFs violation and \$500 for reporting requirements violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment B, for apparent violation of Sections 364.336 and 364.02, Florida Statutes?

RECOMMENDATION: The Commission should impose a total penalty of \$1,500 (\$1,000 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment B, for apparent violation of Sections 364.336 and 364.02, Florida Statutes, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the reporting requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,500 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and reporting requirements are not received, that company's tariff should be cancelled and the company removed from the register administratively, as listed on Attachment B, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment B, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If any of the companies listed on Attachment B have their respective tariff cancelled and name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding penalties and RAF, including statutory penalty and interest charges. **(Isler; Christensen)**

STAFF ANALYSIS: Each of the companies listed on Attachment B have not paid their 2002 Regulatory Assessment Fees, plus statutory penalty and interest charges, in compliance with Section 364.336, Florida Statutes.

In addition, each of the companies listed on Attachment B have had returned mail and have not updated the reporting requirements of the change of their respective address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Staff attempted to call each company, but was unsuccessful. Therefore, it appears the companies listed on Attachment B have failed to comply with Sections 364.336 and 364.02, Florida Statutes, and have not requested cancellation of their respective tariffs or removal from the register. 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 tariff and removal from the register does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the company was registered during any portion of the calendar year, including the year of removal from the register.

Accordingly, staff recommends that the Commission assess a total penalty of \$1,500 (\$1,000 for the RAFs violation and \$500 for the Reporting Requirements violation) or cancel each company's respective tariff and remove the company from the register, as listed on Attachment B, for apparent violation of Sections 364.336 and 364.02, Florida Statutes, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the reporting requirements, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,500 should be paid to the Florida Public Service Commission. If a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and reporting requirements are not received, that company's tariff should be cancelled and the company removed from the register administratively, as listed on Attachment B, and the collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment B, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If any of the companies listed on Attachment B have their respective tariff cancelled and name removed from the register, and subsequently decides to reapply for registration as

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an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding penalties and RAF, including statutory penalty and interest charges.

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 tariff and removal from the register of IXC registration. A protest in one docket should not prevent the action in a separate docket from becoming final. **(Dodson; Christensen)**

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 protest 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 tariff and removal from the register of IXC registration. A protest in one docket should not prevent the action in a separate docket from becoming final.

1st Time Offenders - Nonpayment of RAFs and Reporting Requirements Violation - \$1,000 Penalty

<u>Docket No.</u>	<u>Provider Last Reported Revenues & Period Ended</u>	<u>Reg. No.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
030759-TI	Zenex Long Distance, Inc. \$28,071 Revenues 12/31/2001	TI510	2002	1999
030768-TI	IG2, Inc. \$0 Revenues 12/31/2001	TJ168	2002	2002
030769-TI	U.S. Operators, Inc. \$69,742 Revenues 12/31/2001	TJ211	2002	1999 2000 2002
030773-TI	PDS, Inc. d/b/a Phone Debit Systems, Inc. \$7,520 Revenues 12/31/2001	TJ314	2002	2002
030777-TI	SATCOM Communications Corporation d/b/a SATCOM Communication \$0 Revenues 12/31/2001	TJ380	2002	2001 2002
030788-TI	Far East Gateway, Inc. \$0 Revenues 12/31/2001	TJ440	2002	2002
030797-TI	CityCom Telecommunications, Inc. \$0 Revenues 12/31/2001	TJ512	2002	2002
030803-TI	Global Business Solutions and Services, Inc. No Previous Return Filed	TJ606	2002	2002

*Years Penalty and/or Interest was not paid

2nd Time Offenders - Nonpayment of RAFs (2nd Violation) and Reporting Requirements Violation - \$1,500 Penalty

<u>Docket No.</u>	<u>Provider</u> <u>Last Reported Revenues &</u> <u>Period Ended</u>	<u>Req.</u> <u>No.</u>	<u>RAFs</u>	<u>Penalty</u> <u>and</u> <u>Interest*</u>
030762-TI	Omniplex Communications Group, LLC \$0 Revenues 12/31/2001	TJ118	2002	2002
030771-TI	Comtel Network LLC \$13,122 Revenues 12/31/2001	TJ281	2002	2002

* Years Penalty and/or Interest was not paid