



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

DATE: NOVEMBER 20, 2003
TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) OFFICE OF THE GENERAL COUNSEL (MCKAY)
RE: DOCKET NO. 030790-TI - CANCELLATION OF TARIFF AND REMOVAL FROM REGISTER BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC REGISTRATION NO. TJ457 ISSUED TO EVEREST BROADBAND NETWORKS OF FLORIDA, INC. FOR VIOLATION OF SECTION 364.336, FLORIDA STATUTES.
AGENDA: 12/02/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030790.RCM

CASE BACKGROUND

- 01/08/01 - This company obtained Florida Public Service Commission Interexchange Telecommunications Registration No. TJ457.
12/12/02 - The Division of the Commission Clerk & Administrative Services mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003.
02/21/03 - The Office of the General Counsel sent a delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered on February 25, 2003.

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- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid the 2002 RAF.
- **04/28/03** - Staff wrote the company and explained that payment for the RAF needed to be paid by May 19, 2003, to avoid an enforcement docket from being established.
- **06/26/03** - Mr. Jeffrey Feldman, President, called staff and requested the 2002 and 2003 RAF return forms and a sample letter he could use as an example to request cancellation. The forms and information were faxed the next day, June 27, 2003.
- **08/11/03** - Payment was not received; therefore, this docket was established.
- **10/06/03** - The Commission received the company's payment for the 2002 RAF, including statutory late payment charges, the 2003 RAF, along with a letter requesting cancellation of its tariff and removal from the register. The company reported no revenues for 2002 and 2003.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Everest Broadband Networks of Florida, Inc. a voluntary removal from the register of IXC Registration No. TJ457 and cancel its tariff?

RECOMMENDATION: The Commission should grant Everest Broadband Networks of Florida, Inc. a voluntary removal from the register of IXC Registration No. TJ457 and cancel its tariff with an effective date of October 6, 2003. If the tariff is cancelled and the company's name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange service in Florida. **(Isler; McKay)**

STAFF ANALYSIS: Section 364.336, Florida Statutes, requires the payment of Regulatory Assessment Fees by January 30 of the subsequent year for telecommunications companies, and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of the Commission Clerk & Administrative Services notified staff that the company had not submitted the 2002 Regulatory Assessment Fees, along with statutory late payment charges, for the years 2001 and 2002. Therefore, it appeared the company had failed to comply with Section 364.336, Florida Statutes, and had not requested cancellation of its tariff or removal from the register in compliance with Section 364.02, Florida Statutes.

Staff wrote the company attempting collection of the RAFs prior to establishing a docket without success. The company's President, Mr. Jeffrey A. Feldman called staff on June 26, 2003, and stated that the company had no customers in Florida and did not need its registration any longer. Mr. Feldman stated that the company would pay the 2002 and 2003 RAFs and request removal from the register. No response was received, therefore, this docket was established. On October 6, 2003, the Commission received the company's payment for the 2002 and 2003 RAF, along with statutory late payment charges for 2001 and 2002, and a letter requesting removal from the register of its IXC Registration No. TJ457.

Accordingly, staff believes the Commission should grant Everest Broadband Networks of Florida, Inc. a voluntary removal

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from the register of IXC Registration No. TJ457 and cancel its tariff with an effective date of October 6, 2003. If the tariff is cancelled and the company's name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing intrastate interexchange service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order. **(McKay)**

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon issuance of a Consummating Order.