

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

DATE: DECEMBER 23, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*
OFFICE OF THE GENERAL COUNSEL (MCKAY) *vs m* *bc* *MS*

RE: DOCKET NO. 030622-TX - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF CLEC CERTIFICATE NO. 7126 ISSUED TO
SUN-TEL USA, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C.,
REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

DOCKET NO. 030665-TX - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF CLEC CERTIFICATE NO. 8179 ISSUED TO
BULLSEYE TELECOM, INC. FOR VIOLATION OF RULE 25-4.0161,
F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS
COMPANIES.

AGENDA: 01/06/04 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030622.RCM

CASE BACKGROUND

On December 12, 2002, the certificated companies listed on Attachment A were mailed the 2002 Regulatory Assessment Fee (RAF) Notice and payment was due by January 30, 2003. On February 21, 2002, the Office of the General Counsel mailed a delinquent notice, via certified mail, for nonpayment of the 2002 RAF. The US Postal Service returned the certified receipts, which showed each company as listed on Attachment A signed for and received its respective delinquent notice.

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After the dockets were opened, the companies listed on Attachment A paid the past due amounts in full and proposed settlements to resolve these dockets.

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 accept the settlement offer proposed by each company listed on Attachment A to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, which implements Section 364.336, Florida Statutes?

RECOMMENDATION: The Commission should accept each company's respective settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be cancelled administratively. 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 competitive local exchange telecommunications services in Florida. **(Isler; McKay)**

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements 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

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charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

After the individual dockets were established, the companies listed on Attachment A contacted the Commission and requested information on how to resolve the dockets. The companies subsequently paid the past due amounts in full, including statutory late payment charges, and proposed settlements. Each company listed on Attachment A offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. These settlement amounts are consistent with amounts accepted for recent, similar violations.

Accordingly, staff believes the terms of the settlement agreements as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within fourteen (14) calendar days from the date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Florida Department of Financial Services for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If any of the companies listed on Attachment A fails to pay in accordance with the terms of the Commission Order, that company's respective certificate should be cancelled administratively. 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 competitive local exchange telecommunications services in Florida.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A should be closed upon receipt of the \$100 contribution or cancellation of the certificate. **(McKay)**

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1, the docket for each company listed on Attachment A should be closed upon receipt of the \$100 contribution or cancellation of the certificate.

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ATTACHMENT A

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>P and I*</u>
030622-TX	Sun-Tel USA, Inc. \$0 Revenues for Period Ended 12/31/02	7126	2002	2002
030665-TX	BullsEye Telecom, Inc. \$0 Revenues for Period Ended 12/31/02	8179	2002	2002

* Years Penalty and/or Interest was not paid