



# Public Service Commission

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## -M-E-M-O-R-A-N-D-U-M-

COMMISSION  
CLERK

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**DATE:** JANUARY 8, 2004

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

**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Pji*  
OFFICE OF THE GENERAL COUNSEL (ROJAS) *97 BIL*

**RE:** DOCKET NO. 030794-TI - CANCELLATION OF TARIFF AND REMOVAL FROM REGISTER BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC REGISTRATION NO. TJ469 ISSUED TO SUMMIT TELCO, L.L.C. FOR VIOLATION OF SECTION 364.336, FLORIDA STATUTES.

**AGENDA:** 01/20/04 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\030794.RCM

### CASE BACKGROUND

- **02/05/01** - This company obtained Florida Public Service Commission Intrastate Interexchange Telecommunications Company Registration No. TJ469.
- **07/16/02** - In a separate proceeding, Docket No. 020734-TI was established for nonpayment of the 2001 Regulatory Assessment Fee (RAF). On October 21, 2002, Order No. PSC-02-1443-PAA-TI was issued, which imposed a \$500 penalty or cancelled the company's certificate. The company subsequently paid the past due fee, including statutory late payment charges, and proposed a \$100 settlement. On December 5, 2002, Order No. PSC-02-1702-AS-TI was issued, which accepted the company's settlement proposal. The company paid the \$100 settlement and the docket was closed.

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- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the 2002 RAF notice. The due date was January 30, 2003.
- **02/21/03** - The Office of the General Counsel sent a delinquent notice via certified mail. The US Postal Service returned the certified receipt, which showed the delinquent notice was signed for and delivered.
- **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.
- **08/11/03** - Payment was not received; therefore, this docket was established.
- **10/24/03** - Order No. PSC-03-1205-PAA-TI was issued, which imposed a \$1,000 penalty. The company had until November 14, 2003 to respond to the Order.
- **11/06/03** - The Commission received the company's payment for the 2002 RAF, including statutory late payment charges. The company reported revenues in the amount of \$29 for the period ended December 31, 2002.
- **11/13/03** - The Commission received a response from the company's attorney.
- **12/09/03** - The Commission received a settlement proposal.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.02, 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 Summit Telco, L.L.C. to resolve the apparent violation of Section 364.336, Florida Statutes?

**RECOMMENDATION:** The Commission should accept the company's 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 the company fails to pay in accordance with the terms of the Commission order, the company's tariff should be cancelled and its name removed from the register administratively. In addition, the company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company should be required to first pay any outstanding RAF, including statutory late payment charges, and the contribution. **(Isler; Rojas)**

**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.

On October 24, 2003, Order No. PSC-03-1205-PAA-TI was issued, which imposed a \$1,000 penalty or cancelled the company's tariff and removed its name from the register. The Commission subsequently received the company's payment for the outstanding Regulatory Assessment Fee, including statutory late payment charges, and a letter from the company's attorney which offered to pay a \$500 contribution and proposed to pay future RAFs on a timely basis. The recommended settlement amount in this docket is consistent with amounts the Commission has accepted for recent, similar violations.

This is the second docket established for the same rule violation. In the prior docket, No. 020734-TI, the Commission

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issued Order No. PSC-02-1443-PAA-TI on October 21, 2002, which imposed a \$500 fine or cancelled the company's registration. The company subsequently paid the past due amount and proposed a \$100 settlement. In addition, the company proposed to pay future RAFs on a timely basis. On December 5, 2002, Order No. PSC-02-1702-AS-TI was issued, which accepted the company's \$100 settlement. The company paid the \$100 contribution and the docket was closed.

Accordingly, staff believes the terms of the settlement agreement 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 the company fails to pay in accordance with the terms of the Commission order, the company's tariff should be cancelled and its name removed from the register administratively. In addition, the company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company should be required to first pay any outstanding RAF, including statutory late payment charges and the contribution.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the tariff and removal from the register. **(Rojas)**

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$500 contribution or cancellation of the tariff and removal from the register.