



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-08502 AM 11:13

-M-E-M-O-R-A-N-D-U-M MISSION
CLERK

DATE: JANUARY 22, 2004

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *pij*
OFFICE OF THE GENERAL COUNSEL (MCKAY) *VSM*

RE: DOCKET NO. 030943-TI - CANCELLATION OF TARIFF AND REMOVAL FROM REGISTER BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC REGISTRATION NO. TJ525 ISSUED TO TELECOM NEW ZEALAND COMMUNICATIONS (USA) LIMITED, INC. FOR VIOLATION OF SECTION 364.336, FLORIDA STATUTES. *mtj*

AGENDA: 02/03/04 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030943.RCM

CASE BACKGROUND

- **07/30/01** - This company obtained Florida Public Service Commission Interexchange Telecommunications Registration No. TJ525.
- **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.

DOCUMENT NUMBER-DATE

00967 JAN 22 04

FPSC-COMMISSION CLERK

- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid the 2002 RAF.
- **05/22/03** - The Commission received a letter from the company's regulatory consultant, Mr. Anthony Cooke, requesting cancellation of its tariff and removal from the register.
- **05/30/03** - Staff called Mr. Cooke and left a voice mail message advising the past due late payment charges needed to be paid and the company either needed to pay the 2003 fee or provide a date certain it would be paid.
- **06/17/03** - Staff called Mr. Cooke and left a second voice mail message.
- **06/26/03** - Staff wrote the company's consultant and explained the company needed to comply with the cancellation rule before staff could go forward with its request for a voluntary cancellation of its tariff and removal from the register.
- **09/26/03** - Payment was not received; therefore, this docket was established.
- **12/02/03** - The Commissioners voted at the December 2, 2003, Agenda Conference to deny the company a voluntary cancellation of its tariff and removal from the register.
- **12/04/03** - Mr. Patrick Hardy, Consultant, called staff and advised that the company wished to withdraw from Florida in good standing with the Commission. Staff advised Mr. Hardy what needed to be done.
- **12/16/03** - The Commission received a letter from the company requesting voluntary cancellation and payment of the past due late payment charges and the 2003 RAF. The company reported no revenues for the period ended December 31, 2003.
- **12/23/03** - Order No. PSC-03-1468-PAA-TI was issued, which denied the company a voluntary cancellation of its tariff and removal from the register. A response to the Proposed Agency Action Order was due by January 13, 2004.

- **12/29/03** - The Commission received the company's timely filed response to the Proposed Agency Action Order.
- **01/14/04** - As of this date, the company does not have any outstanding consumer complaints.

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 grant Telecom New Zealand Communications (USA) Limited, Inc. a voluntary removal from the register of IXC Registration No. TJ525 and cancel its tariff?

RECOMMENDATION: The Commission should grant Telecom New Zealand Communications (USA) Limited, Inc. a voluntary removal from the register of IXC Registration No. TJ525 and cancel its tariff with an effective date of May 22, 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. Therefore, it appeared the company had failed to comply with Section 364.336, Florida Statutes.

The Commission subsequently received a letter from the company's regulatory consultant, which requested voluntary cancellation of its tariff and removal from the register. After unsuccessfully attempting collection of the past due late payment charges and either payment of the 2003 fee or a date certain the fee would be paid, this docket was established. On December 23, 2003, Order No. PSC-03-1468-PAA-TI was issued, which denied the company a voluntary cancellation of its tariff and removal from the register. The Commission received the past due amount, along with the 2003 RAF, and a letter requesting voluntary removal from the register of its IXC Registration No. TJ525 and cancellation of the company's tariff.

Accordingly, staff believes the Commission should grant Telecom New Zealand Communications (USA) Limited, Inc. a voluntary removal from the register of IXC Registration No. TJ525 and cancel its tariff with an effective date of May 22, 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: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the company's tariff and removal from the register of Registration No. TJ525 as no other issues need to be addressed by the Commission.
(McKay)

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon cancellation of the company's tariff and removal from the register of Registration No. TJ525 as no other issues need to be addressed by the Commission.