

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation by Florida Public Service Commission of IXC Certificate No. 7723 issued to Maxtel USA, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 020735-TI

In re: Cancellation by Florida Public Service Commission of IXC Certificate No. 7906 issued to Intelligent Switching and Software, LLC for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 020756-TI

In re: Cancellation by Florida Public Service Commission of IXC Certificate No. 7163 issued to Blegbi, Inc. for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 020955-TI

In re: Cancellation by Florida Public Service Commission of IXC Certificate No. 7969 issued to Calpoint (Florida), LLC for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 021160-TI  
ORDER NO. PSC-02-1805-PAA-TI  
ISSUED: December 19, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

DOCUMENT NUMBER 13829

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FPSC-COMMISSION CLERK

NOTICE OF PROPOSED AGENCY ACTION  
ORDER IMPOSING PENALTIES AND REQUIRING PAYMENT OF  
DELINQUENT REGULATORY ASSESSMENT FEES, OR CANCELING  
INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Each of the telecommunications providers listed on Attachment A had not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. Our staff wrote each of the companies listed on Attachment A in an attempt to bring the companies into compliance with the RAF rule. No payment or response was received, therefore, dockets were established. Only one company, Intelligent Switching and Software, LLC in Docket No. 020756-TI, paid the past due amount. Our staff wrote the company another letter and explained that in addition to requiring any past due balance, the company should either propose a settlement to resolve the docket or request cancellation of its certificate. No further response was received.

The other companies listed on Attachment A have not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.474, Florida Administrative Code. The penalty amount assessed in these dockets is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, we find it appropriate to assess a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, with an effective date of December 31, 2002, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If a company does not protest this Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with this Order, that company's certificate, as listed on Attachment A, shall be cancelled administratively and the collection of the past due fees shall be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with this Order, the respective company shall be required to immediately cease and desist providing interexchange telecommunications services in Florida.

We are vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the entities listed on Attachment A shall pay the past due Regulatory Assessment Fees, statutory penalties, interest charges, and a \$500 penalty to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, within 14 days after the issuance of the Consummating Order. The penalties will be transmitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that should any of the entities listed on Attachment A fail to comply with this Order, that entity's certificate shall be canceled, effective on the date of issuance of the Consummating Order; the collection of the past due fees shall be referred to the

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Office of the Comptroller for further collection efforts; and the respective docket shall be closed. It is further

ORDERED that the cancellation of the certificate in no way diminishes any of the entities' obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory penalties and interest charges. It is further

ORDERED that if an entity's certificate is canceled in accordance with this Order, that entity shall immediately cease and desist providing Interexchange Telecommunications services in Florida. It is further

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that, if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, each docket shall be closed upon payment of the penalty, and fees, or upon cancellation of the certificate.

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By ORDER of the Florida Public Service Commission this 19th  
day of December, 2002.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

AJT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 9, 2003.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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**ATTACHMENT A**

Issue 1 - 1<sup>st</sup> Time IXC Offenders - Nonpayment of RAFs - \$500 Penalty

<u>DOCKET NO.</u>	<u>PROVIDER</u> <u>LAST REPORTED REVENUES &amp;</u> <u>PERIOD ENDED</u>	<u>CERT.</u> <u>NO.</u>	<u>RAFS</u>	<u>PENALTY</u> <u>AND</u> <u>INTEREST*</u>
020735-TI	Maxtel USA, Inc. No Previous Return Filed	7723	2001	2001
020756-TI	Intelligent Switching and Software, LLC \$0 Revenues for Period Ended 12/31/01	7906	2001	2001
020955-TI	Blegbi, Inc. \$0 Revenues for Period Ended 12/31/00	7163	2001	2000 2001
021160-TI	Calpoint (Florida), LLC No Previous Return Filed	7969	2001	2001

\*Years penalty and/or interest was not paid