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FLORIDA PUBLIC SERVICE COMMISSION  
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**M E M O R A N D U M**

May 29, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (PRUITT, STRONG) *np jds [initials]*  
DIVISION OF LEGAL SERVICES (STOVER) *[initials]*

RE: DOCKET NO. 970579-TI - CANCELLATION BY FLORIDA PUBLIC  
SERVICE COMMISSION OF CERTIFICATE NO. 3499 ISSUED TO TEL-  
SPAN COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-24.480  
(2), FLORIDA ADMINISTRATIVE CODE, RECORDS AND REPORTS;  
RULES INCORPORATED.

AGENDA: 06/10/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\970579.RCM

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**CASE BACKGROUND**

On December 2, 1993, the Commission granted Interexchange Telecommunications Certificate No. 3499 to Tel-Span Communications, Inc. (Tel-Span). Mail sent to Tel-Span on March 28 and March 31, 1997, was returned to the Division of Records and Reporting marked, "Insufficient Address, Return To Sender." On May 8, 1997, Communications staff attempted unsuccessfully to reach Tel-Span by calling the telephone number listed in the Master Commission Directory. The number had been disconnected. Directory assistance had no listing for the company.

DOCUMENT NUMBER-DATE

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### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission cancel Tel-Span's Interexchange Telecommunications Certificate No. 3499, if it fails to pay a \$250 fine within 30 days of the date the order becomes final, provide staff with the correct mailing address, telephone number, and other information as required by Rule 25-24.480 (2), Florida Administrative Code, Records and Reports; Rules Incorporated, and submit its regulatory assessment fee, along with the statutory penalties and interest charges, as required by Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

**RECOMMENDATION:** Yes. Any fine collected should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285, Florida Statutes.

**STAFF ANALYSIS:** Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.474, Florida Administrative Code, establishes the requirements for cancellation of an interexchange telephone company (IXC) certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Pursuant to Rule 25-24.480 (2), Florida Administrative Code, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's mailing address, telephone number, and liaison information. The Post Office returned to the Division of Records and Reporting mail sent to Tel-Span in March. Further investigation indicated that Tel-Span's telephone number listed in the Master Commission Directory was disconnected and no other number was available through directory assistance. It has been well over 10 days and Tel-Span has not provided staff with its correct mailing address and phone number.

Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts. As of May 8, 1997, Tel-Span had not submitted the 1996 regulatory assessment fee, along with statutory penalties and interest charges. Therefore, the company has not complied with Rules 25-24.480(2) and 25-4.0161, Florida Administrative Code, in that it has not filed with staff the change in mailing address and telephone number within 10 days of the change nor has Tel-Span submitted its regulatory assessment fee, along with the statutory penalties and interest charges.

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Accordingly, staff recommends that the company's certificate be canceled unless it pays a \$250 fine, provides staff with the information required in accordance with Rule 25-24.480(2), Florida Administrative Code, within 30 days of the Order becoming final and submits its regulatory assessment fee, along with the statutory penalties and interest charges, as required in Rule 25-4.0161, Florida Administrative Code. Staff notes that cancellation or a fine is consistent with previous proceedings of this nature.

**ISSUE 2:** Should the Commission order all certificated interexchange companies to discontinue providing interexchange telecommunications service to Tel-Span pursuant to Rule 25-24.4701(3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertified Resellers Prohibited?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** Rule 25-24.4701(3), Florida Administrative Code, states:

(3) The Commission, upon making a determination that a customer of an interexchange company is unlawfully reselling or rebilling intrastate interexchange service may issue an order that directs the customer to cease and desist reselling or rebilling such service and simultaneously directs the interexchange company to discontinue providing such service to such customer and/or to cease providing service to such customer at additional locations within Florida, provided that such discontinuance or limitation of service is technically feasible within the context of existing facilities and technology.

If Tel-Span's certificate is canceled, any intrastate IXC service offered by the company would be in violation of Rule 25-24.4701(3), Florida Administrative Code.

Therefore, staff recommends that the Commission order all certificated IXC's to discontinue providing intrastate interexchange service to Tel-Span.

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**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final, and the provider will have 30 days from the date the Order becomes final to pay a \$250 fine, which shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285, Florida Statutes, provide staff with the information as required in Rule 25-24.480(2), Florida Administrative Code, and submit its regulatory assessment fee, along with the statutory penalties and interest charges as required in Rule 25-4.0161, Florida Administrative Code, or its certificate will be canceled without further Commission action. Upon payment of the fine or cancellation of the certificate, this docket should be closed without further Commission action.

**STAFF ANALYSIS:** If the Commission adopts staff's recommendation in Issue 1, then the provider will have 30 days from the date the Order becomes final to pay a \$250 fine, which shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285, Florida Statutes, provide staff with the information as required by Rule 25-24.480(2), Florida Administrative Code, and submit its regulatory assessment fee, along with the statutory penalties and interest charges, as required in Rule 25-4.0161, Florida Administrative Code, or its certificate will be canceled without further Commission action. If no protest is filed in this docket, the docket should be closed after the conclusion of the 30 day period.