

State of Florida



Public Service Commission

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RECORDS AND REPORTING

DATE: APRIL 8, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pij RTH*
DIVISION OF LEGAL SERVICES (K. PEÑA) *MCB/KP*

RE: DOCKET NO. 981233-TA - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF AAV CERTIFICATE NO. 4097 ISSUED TO U.S. TELESYS, L.P., FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 04/20/99 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981233.RCM

CASE BACKGROUND

U.S. Telesys, L.P. obtained Florida Public Service Commission AAV Certificate No. 4097 on February 3, 1996.

The Division of Administration mailed the 1997 regulatory assessment fee (RAF) notice by certified mail. The United States Postal Service (USPS) returned the receipt, which showed the RAF notice was signed for and delivered on December 15, 1997.

The Division of Administration advised staff by memorandum that this company had not paid its 1997 RAF, plus the 1996 and 1997 statutory penalty and interest charges.

DOCUMENT NUMBER-DATE

04524 APR-89

FPSC-RECORDS/REPORTING

On December 18, 1998, Order No. PSC-98-1714-FOF-TA was issued, which imposed a \$500 fine and required payment of the fine and past due fees by January 15, 1999. The company's attorney, Mr. David Wintersgill, responded to the Order and requested that the company's certificate be canceled. Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant U.S. Telesys, L.P. a voluntary cancellation of its AAV Certificate No. 4097?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its AAV certificate. The Commission should involuntarily cancel U.S. Telesys, L.P.'s certificate with an effective date of December 31, 1998. (Isler)

STAFF ANALYSIS: Rule 25-24.735, Florida Administrative Code, Cancellation of a Certificate, provides that the Commission may cancel a company's certificate for violation of Commission rules and orders or Florida Statutes. In addition, Rule 25-24.735(2)(a), (b), (c), and (d), F.A.C., states:

(2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

- (a) the date the final Regulatory Assessment Fee was paid;
- (b) a statement of the reasons for cancellation;
- (c) a statement on the treatment of customer deposits and final bills; and
- (d) a representative copy of a customer notice regarding discontinuance of service.

The Division of Administration's records show that as of April 1, 1999, U.S. Telesys, L.P. has not paid the past due fees. Since the company's certificate remains active until it requests a voluntary cancellation and complies with the cancellation rule, or the Commission involuntarily cancels the certificate for a rule violation, U.S. Telesys, L.P. is responsible for the regulatory assessment fees. The company continues to be in violation of

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Commission rules by not paying the regulatory assessment fees; therefore, a voluntary cancellation would be inappropriate. Since the company is no longer in business, staff believes that no purpose would be served in requiring the company to pay a fine. By involuntarily cancelling this company's certificate, staff would be able to track this company should it apply for another certificate with the Commission in the future.

Accordingly, staff believes the company's certificate should be involuntarily canceled with an effective date of December 31, 1998.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed. (K. Peña)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, no other issues remain unresolved and this docket should be closed.