

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) *Di RTH*
DIVISION OF LEGAL SERVICES (K. PEÑA) *NCB ju KP*

RE: DOCKET NO. 981947-TS - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF STS CERTIFICATE NO. 4098 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 - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981947.RCM

CASE BACKGROUND

U.S. Telesys, L.P. obtained Florida Public Service Commission STS Certificate No. 4098 on February 7, 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

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FPSC-RECORDS/REPORTING

After the docket had been opened but prior to a recommendation being filed, the company's attorney, David Wintersgill, wrote a letter and requested that its certificate be voluntarily canceled. As of April 1, 1999, the past due regulatory assessment fees have not been paid. 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 STS Certificate No. 4098?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its STS 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 25-24.575, 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 25-24.575(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) Statement of intent and date to pay Regulatory Assessment Fee.

(b) Statement of why the certificate is proposed to be canceled.

(c) Proof of individual customer notice regarding discontinuance of service.

(d) Statement on treatment of customer deposits and final bills.

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, the company is responsible for the regulatory assessment

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fees. The company continues to be in violation of 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 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. Upon payment of the fine and fees, or cancellation of the certificate, this docket should be closed. (K. Peña)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon payment of the fine and fees, or upon cancellation of the certificate.