

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: AUGUST 5, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PIK*
DIVISION OF LEGAL SERVICES (K. PEÑA) *KMP CB*

RE: DOCKET NO. 990766-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 4375 ISSUED TO FIVE STAR TELECOM, INC., FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 08/17/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990766.RCM

RECORDS AND REPORTING
AUG - 5 AM 10:12
COMMUNICATIONS

CASE BACKGROUND

- 03/20/96 - Five Star Telecom, Inc. obtained IXC Certificate No. 4375.
- 12/10/98 - The Division of Administration mailed the regulatory assessment fee (RAF) notice.
- 02/01/99 - Payment was due. The Division of Administration's records show that this company had not paid its 1998 RAF, plus statutory penalty and interest charges for 1998.
- 03/12/99 - The Division of Administration mailed a delinquent notice to the company.

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RECORDS AND REPORTING

- **05/28/99** - The company wrote the Commission and advised that it had not "done any intrastate commerce in your state and has not complied with any filings required in 1999, due to lack of staffing and funding." The company went on to request cancellation of its certificate.
- **07/12/99** - Staff sent the company a note and explained that as long as regulatory assessment fees are outstanding, staff could not recommend a voluntary cancellation.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Five Star Telecom, Inc. a voluntary cancellation of IXC Certificate No. 4375?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its IXC certificate. The Commission should cancel the company's certificate on its own motion. (Isler)

STAFF ANALYSIS: After staff received a letter from this company which advised that it had not operated in the state and requested cancellation of its certificate, staff responded by internet e-mail on July 12, 1999, and advised that since the regulatory assessment fees and statutory penalty and interest charges were outstanding, staff could not recommend approval of a voluntary cancellation.

Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30, or the next business day, of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

As of July 27, 1999, the Division of Administration's records do not show payment of the past due amount. Accordingly, the Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's certificate on its own motion.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the proposed agency action order. (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 the issuance of a Consummating Order.