

State of Florida



Public Service Commission

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

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RECORDS AND REPORTING

DATE: FEBRUARY 17, 2000

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

FROM: DIVISION OF LEGAL SERVICES (CLEMONS) *RMC BIC*
DIVISION OF COMMUNICATIONS (BIEGALSKI) *UB*

RE: DOCKET NO. 992030-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST U.S. OPERATORS, INC. FOR APPARENT VIOLATION OF RULE 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES

AGENDA: 2/29/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\992030.RCM

CASE BACKGROUND

- April 17, 1999 - U.S. Operators, Inc. (U.S. Operators) obtained Florida Public Service Commission Interexchange Telecommunications Certificate Number 6061.
- August 5, 1999 - Staff mailed a certified letter to U.S. Operators requesting information pertaining to its operator service provider rates listed in its tariff. Staff requested a response by August 20, 1999.
- August 9, 1999 - U.S. Operators signed for and received the certified letter.
- December 29, 1999 - After receiving no response to its August 5, 1999 certified letter, staff opened this docket to

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investigate whether U.S. Operators should be required to show cause why it should not be fined or have its certificate canceled for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries.

- January 28, 2000 - U.S. Operators submitted an offer to settle this case. (Attachment A, Page 4)

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by U.S. Operators, Inc. to resolve the apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the issuance date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. **(Biegalski)**

STAFF ANALYSIS: Staff sent a certified letter to U.S. Operators on August 5, 1999, and requested a written response by August 20, 1999. The letter was signed for and received by U.S. Operators on August 9, 1999. Staff did not receive a response from U.S. Operators in apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Therefore, on December 29, 1999, staff opened this docket to require U.S. Operators to show cause why it should not be fined or have its certificate canceled, pursuant to Section 364.285, Florida Statutes.

On January 13, 2000, U.S. Operators contacted staff to discuss the method for settlement of this case. On January 28, 2000, U.S. Operators submitted its offer to settle provided as Attachment A, (Page 4). In its settlement offer, U.S. Operators supplied a response to the requested information and proposed a monetary settlement of \$2,500.

In its settlement offer, U.S. Operator states that it has never offered service in the State of Florida. It further states that the company felt that because it had no customers and did not offer service nor collect revenues in the State of Florida, it believed that correspondence regarding the tariff did not require immediate attention. The company now understands the requirement of responding to staff inquiries. In addition, even though the company does not provide operator services in the State of Florida at this time, the company revised its tariff on February 8, 2000, in order to comply with the rate caps implemented on February 1, 1999.

Staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable, and we support U.S. Operator's offer of settlement. Any contribution should be received by the Commission within ten business days from the issuance date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. With the approval of Issue 1, this docket should remain open pending the remittance of the \$2,500 voluntary contribution. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of the Commission Order, the company's certificate should be canceled administratively, and this docket should be closed. (Clemons)

STAFF ANALYSIS: This docket should remain open pending the remittance of the \$2,500 voluntary contribution. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of its settlement offer, the company's certificate should be canceled administratively, and this docket should be closed.



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January 28, 2000

Ms. Kelly Biegalski
Regulatory Analyst
Bureau of Service Evaluation
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Dear Ms. Biegalski:

U.S. Operators received correspondence from you, dated August 5, 1999, regarding operator services rates the company currently has on file with the Florida Public Service Commission.

Although the company has had a tariff on file in Florida, U.S. Operators has never offered service in the state. The company felt that because it had no customers, did not offer service nor collect revenue in the state of Florida correspondence regarding the tariff did not require immediate attention.

The company understands that a lack of response, regardless of the circumstances, is a violation of Rule 25-4.043 and proposes a settlement in the amount of \$2,500 to be paid to the Florida Public Service Commission general fund for any inconvenience the lack of response causes as well as for the seeming lack of regard, albeit unintentional, on the part of U.S. Operators.

Please provide a response regarding this offer directly to me, or call me at your convenience at 407.740.3005.

Sincerely,

Monique Byrnes
Consultant to U.S. Operators, Inc.

cc: B. Loveless, USOperators
file: USOperators - FL