

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: FEBRUARY 17, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pij*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *km/ak*

RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.480(2)(A) AND (B), F.A.C., RECORDS & REPORTS; RULES INCORPORATED

DOCKET NO. 991776-TI - ITF, INC.
DOCKET NO. 991777-TI - EMPIRE TELECOM, INC.
DOCKET NO. 991778-TI - AMERICAN TELEPHONE COMPANY, INC.
DOCKET NO. 991845-TI - T2U CO.
DOCKET NO. 991852-TI - AMERICAN PHONE CORPORATION

AGENDA: 02/29/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991776.RCM

CASE BACKGROUND

Each of the certificated interexchange telecommunications providers listed on page 6 were mailed the 1998 regulatory assessment fee (RAF) notice. When full payment had not been received by the due date, the Division of Administration mailed a delinquent letter to the companies. As of February 7, 2000, none of the companies have paid the past due amount.

In addition, other correspondence to the companies listed on page 6 was returned by the United States Postal Service (USPS).

DOCUMENT NUMBER-DATE
02159 FEB 17 8
FPSC-RECORDS/REPORTING

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel the interexchange telecommunications' certificates issued to the companies listed on page 6 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's respective certificate as listed on page 6 if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the interexchange telecommunications' certificate numbers listed on page 6 should be canceled administratively. (Isler)

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 telecommunications' company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

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

Staff was notified by the Division of Administration that the interexchange telecommunications' providers listed on page 6 had not paid their 1998 regulatory assessment fees in full, plus statutory penalty and interest charges. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and have not requested cancellation of their certificates in compliance with Rule 25-24.474, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel each company's respective certificate as listed

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on page 6 if the fine and the regulatory assessment fees, including statutory penalty and interest charges, are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalty and interest charges, are not received, the interexchange telecommunications' certificate numbers listed on page 6 should be canceled administratively.

ISSUE 2: Should the Commission impose a \$500 fine or cancel the interexchange telecommunications' certificates issued to the companies listed on page 6 for apparent violation of Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records & Reports; Rules Incorporated?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel each company's respective certificate as listed on page 6 if the information required by Rule 25-24.480(2)(a) and (b), F.A.C., Records & Reports; Rules Incorporated, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and required information are not received, the interexchange telecommunications' certificate numbers listed on page 6 should be canceled administratively. (Isler)

STAFF ANALYSIS: Pursuant to Rule 25-24.480(2)(a) and (b), F.A.C., Records & Reports; Rules Incorporated, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to each company listed on page 6 was returned to the Commission by the USPS. It has been well over 10 days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor have the companies requested cancellation of their certificate in compliance with Rule 25-24.480(2)(a) and (b), F.A.C.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel each company's respective certificate as listed on page 6 if the information required by Rule 25-24.480(2)(a) and (b), F.A.C., Records & Reports; Rules Incorporated, and fine are not received by the Commission within five business days after the issuance of the Consummating Order. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and required information are not received, the interexchange telecommunications' certificate numbers listed on page 6 should be canceled administratively.

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ISSUE 3: Should these dockets be closed?

RECOMMENDATION: Yes, if the Commission approves or modifies staff's recommendation on Issues 1 and 2, these dockets should be closed upon receipt of the required information and fine and fees or cancellation of the certificates, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. If the Commission denies staff's recommendation on Issues 1 and 2, these dockets should be closed administratively. A protest in one docket should not prevent the action in a separate docket from becoming final. (K. Peña; B. Keating)

STAFF ANALYSIS: Whether staff's recommendation on Issues 1 and 2 is approved or modified, the result will be a proposed agency action order and these dockets should be closed upon receipt of the required information and fine and fees or cancellation of the certificates unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action. If the Commission denies staff's recommendation on Issues 1 and 2, these dockets should be closed administratively. A protest in one docket should not prevent the action in a separate docket from becoming final.

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<u>DOCKET NO.</u>	<u>PROVIDER</u> <u>LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>CERT.</u> <u>NO.</u>	<u>RAFs</u>	<u>P and I</u>
991776-TI	ITF, Inc. No Previous RAF Form Returned	5630	1998	1998
991777-TI	Empire Telecom, Inc. No Previous RAF Form Returned	5633	1998	1998
991778-TI	American Telephone Company, Inc. No Previous RAF Form Returned	5615	1998	1998
991845-TI	T2U Co. No Previous RAF Form Returned	5713	1998	1998
991852-TI	American Phone Corporation No Previous RAF Form Returned	5734	1998	1998