



# Public Service Commission

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

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COMMUNICATIONS SECTION

**DATE:** MARCH 23, 2000

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

**FROM:** DIVISION OF TELECOMMUNICATIONS (ISLER) *Dxi*  
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *BK* *KMP*

**RE:** CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

- DOCKET NO. 991878-TX - TELECOMMUNICATIONS SERVICE CENTER, INC.
- DOCKET NO. 991986-TX - NETEL, INC. D/B/A TEL3
- DOCKET NO. 991989-TX - INTERNETU, INC.
- DOCKET NO. 992004-TX - ALL KINDS CASHED, INC.

**AGENDA:** 04/04/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\991878.RCM

### CASE BACKGROUND

Each of the certificated alternative local exchange telecommunications' providers listed on page 5 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 March 15, 2000, none of the companies have paid the past due amount.

Staff believes the following recommendations are appropriate.

DOCUMENT NUMBER-DATE

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REC-RECORDS & REPORTING

DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a \$500 fine or cancel the alternative local exchange telecommunications' certificates issued to each company listed on page 5 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 certificate as listed on page 5 if the fine and the 1998 and 1999 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 alternative local exchange telecommunications certificate numbers listed on page 5 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 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of an alternative local exchange 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 penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

The Division of Administration's records show that each of the alternative local exchange telecommunications' providers listed on page 5 had not paid their 1998 regulatory assessment fees in full, plus statutory penalty and interest charges. In addition, the 1999 RAF, which was due January 31, 2000, has not been paid. 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 25-24.820, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the companies' respective certificate numbers if the fine and the

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1998 and 1999 regulatory assessment fees, along with statutory penalty and interest charges, are not paid 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 alternative local exchange telecommunications' certificate numbers listed on page 5 should be canceled administratively.

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**ISSUE 2:** Should these dockets be closed?

**RECOMMENDATION:** Yes, if the Commission approves or modifies staff's recommendation on Issue 1, these dockets should be closed upon receipt of the 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 Issue 1, 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 Issue 1 is approved or modified, the result will be a proposed agency action order and these dockets should be closed upon receipt of the 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 Issue 1, 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 &amp; PERIOD COVERED</u>	<u>CERT.</u> <u>NO.</u>	<u>RAF's</u>	<u>P and I</u>
991878-TX	Telecommunications Service Center, Inc. \$0 Revenues for Period Ended 12/31/97	4406	1998	1996 1998
991986-TX	TEL3 No Previous RAF Form Returned	5639	1998	1998
991989-TX	InternetU, Inc. No Previous RAF Form Returned	5678	1998	1998
992004-TX	All Kinds Cashed, Inc. No Previous RAF Form Returned	5760	1998	1998