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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-

RECORDS AND REPORTING

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RECEIVED-FISC

DATE: MAY 25, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PJ* *KA*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *MM* *JSK*

RE: DOCKET NO. 991880-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4771 ISSUED TO TOTALTEL USA COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES

AGENDA: 06/06/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\991880.RCM

CASE BACKGROUND

- **01/29/97** - This company obtained Florida Public Service Commission ALEC Certificate No. 4771.
- **12/10/98** - The Division of Administration mailed the regulatory assessment fee (RAF) notice. In accordance with Florida Statute 350.113(4), the Commission "shall provide each regulated company with written notice of the date that payment of the fee is due at least 45 days prior to such date", which would put the due date to February 1, 1999.
- **03/17/99** - The Division of Administration mailed a delinquent letter.

DOCUMENT NUMBER-DATE

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- **01/18/00** - The Commission received a check for the 1999 RAF. The company reported no revenues for the period ended December 31, 1999.
- **03/16/00** - Mr. David Benamy called staff and asked for information on how to resolve this docket. That information was faxed to the company on the same date.
- **05/16/00** - Mr. Benamy called staff again and advised that through an oversight the company had not paid the past due amount or proposed a settlement. However, he assured staff that he would follow up on it.
- **05/18/00** - The Commission received a check for the 1998 RAF, and penalty and interest charges for 1997 and 1998, and a settlement proposal.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by TotalTel USA Communications, Inc. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

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 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. If the company fails to pay in accordance with the terms of the Commission Order, the company's Certificate No. 4771 should be canceled administratively. (Isler)

STAFF ANALYSIS: After the docket was opened, but prior to staff filing a recommendation, the company contacted staff and advised that it would pay the past due amount in full and make a settlement offer. The company has since paid the past due amount in full, including all penalty and interest charges; offered a settlement in the amount of \$100; and proposed to pay future RAFs on a timely basis.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. Any contribution should be received by the Commission within ten business days from the 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. If the company fails to pay in accordance with the terms of the Commission Order, the company's Certificate No. 4771 should be canceled administratively.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, if the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.