

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-**

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**DATE:** DECEMBER 7, 2000

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

**FROM:** DIVISION OF COMPETITIVE SERVICES (ISLER) *pic*  
DIVISION OF LEGAL SERVICES (DANDELAKE) *mtg c.f.f.*

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

DOCKET NO. 001308-TI - U.S. NETWORK SERVICES, INC.  
DOCKET NO. 001319-TI - ECI COMMUNICATIONS OF OREGON, INC.  
DOCKET NO. 001342-TI - NATIONAL DATA & COMMUNICATIONS OF FLORIDA, LLC  
DOCKET NO. 001354-TI - ARC PHONE USA INC.  
DOCKET NO. ~~001355-TI~~ - COMTEL NETWORK LLC  
DOCKET NO. 001360-TI - SPARTAN COMMUNICATIONS CORPORATION OF NORTH CAROLINA

**AGENDA:** 12/19/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\001308.RCM

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### CASE BACKGROUND

Each of the certificated providers listed on page 5 were mailed the 1999 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 November 15, 2000, none of the companies have paid the past due amount.

DOCUMENT NUMBER-DATE

15593 DEC-68

FPSC-RECORDS/REPORTING

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The Commission is vested with jurisdiction over this matter pursuant to Section 364.336, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

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### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission impose a \$500 fine or cancel each company's respective certificate 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 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 certificate numbers listed on page 5 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (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, which implements Section 364.336, Florida Statutes, 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 companies listed on page 5 had not paid its 1999 regulatory assessment fees, 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

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Administrative Code. This fine is consistent with amounts used for recent, similar violations.

Accordingly, staff recommends that the Commission should impose a \$500 fine or cancel each company's certificate as listed on page 5 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 certificate numbers listed on page 5 should be canceled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

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

**RECOMMENDATION:** Yes, these dockets should be closed upon receipt of the fine and fees or cancellation of the certificate, 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. A protest in one docket should not prevent the action in a separate docket from becoming final.  
(Dandelake)

**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, these dockets should be closed upon receipt of the fine and fees or cancellation of the certificate. 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<br/>LAST REPORTED REVENUES &amp; PERIOD COVERED</u>                     | <u>CERT.<br/>NO.</u> | <u>RAFs</u> | <u>P and I</u> |
|-------------------|---|----------------------|-------------|----------------|
| 001308-TI         | U.S. Network Services, Inc.<br>1998 Revenues - \$0<br>For the Period Ended 12/31/98 | 5700                 | 1999        | 1998<br>1999   |
| 001319-TI         | ECI Communications of Oregon, Inc.<br>No Previous RAF Returned Filed                | 6057                 | 1999        | 1999           |
| 001342-TI         | National Data & Communications<br>No Previous RAF Returned Filed                    | 2984                 | 1999        | 1999           |
| 001354-TI         | Arc Phone USA Inc.<br>No Previous RAF Returned Filed                                | 7108                 | 1999        | 1999           |
| 001357-TI         | Comtel Network LLC<br>No Previous RAF Returned Filed                                | 7159                 | 1999        | 1999           |
| 001360-TI         | Spartan Communications<br>No Previous RAF Returned Filed                            | 7207                 | 1999        | 1999           |