



Public Service Commission

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RECORDS AND REPORTING

DATE: MARCH 22, 2001

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

FROM: DIVISION OF LEGAL SERVICES (ELLIOTT) *DAE*
DIVISION OF COMPETITIVE SERVICES (K. CRAIG) *(K)*

RE: DOCKET NO. 010132-TX - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST INTERNATIONAL TELCOM, LTD. FOR APPARENT VIOLATION OF SECTION 364.183(1), F.S., ACCESS TO COMPANY RECORDS.

AGENDA: 04/03/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\010132.RCM

CASE BACKGROUND

- December 17, 1997 - International Telcom, Ltd. (ITL) obtained Florida Public Service Commission Alternative Local Exchange Company Certificate Number 5531.
- July 6, 2000 - Staff mailed a certified letter requesting information necessary for inclusion in the 2000 local competition report required of the Commission by Section 364.386, Florida Statutes. Staff requested a response by August 10, 2000.
- July 10, 2000 - ITL signed for and received the certified letter.
- January 30, 2001 - After receiving no response to its July 6, 2000 certified letter, staff opened this docket to investigate whether ITL should be required to show cause why it should not

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be fined \$10,000 or have its certificate canceled for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

- February 8, 2001 - Staff filed a recommendation for the February 20, 2001 Agenda Conference.
- February 13, 2001 - ITL contacted staff seeking information about this docket and inquiring about the method for resolving issues associated with the docket.
- February 14, 2001 - Staff received a fax from ITL requesting deferral from the February 20, 2001 Agenda Conference.
- February 16, 2001 - ITL's request for deferral of Item Number 27, Docket No. 010132-TX, on the February 20, 2001 Agenda Conference was approved by the Chairman.
- March 7, 2001 - Staff received a letter from ITL proposing a settlement offer of \$3,500 to resolve the case. ITL included a statement in which it waived the right of objection to administrative cancellation of its certificate in the event the settlement proposal is accepted and the company ultimately fails to comply with the terms of the offer. (Attachment A, page 6)

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.183, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by International Telcom, Ltd. (ITL) to resolve the apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days of 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 of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate Number 5531 should be canceled administratively.
(K. Craig)

STAFF ANALYSIS: Staff sent a certified letter to ITL on July 6, 2000, requesting information in company records necessary to complete the 2000 local competition report required of the Commission by Section 364.386, Florida Statutes, and requested a response from ITL by August 10, 2000. Staff received the certified return receipt card signed for July 10, 2000, but did not receive the requested information from ITL, in apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. Therefore, on January 30, 2001, staff opened this docket to require ITL to show cause why it should not be fined \$10,000 or have its certificate canceled, pursuant to Section 364.285, Florida Statutes.

On February 13, 2001, ITL contacted staff to discuss the method for settlement of this case. On February 14, 2001, ITL faxed a letter requesting deferral from the February 20, 2001 Agenda Conference, which was approved by the Chairman on February 16, 2001. In a letter received on March 7, 2001, ITL proposed a settlement offer, and included a waiver of objection to the administrative cancellation of the company's certificate in the event the settlement proposal is accepted and the company ultimately fails to comply with the terms of its offer (Attachment A, page 6). In its settlement offer, ITL proposed the following:

- A monetary settlement of \$3,500.
- To implement an entirely new set of procedures for tracking all regulatory reports and filings.

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- To build a new data base and "tickle system" for improved handling of all regular filings as well as periodic requests for information, such as the 2000 local competition report.

Staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable, and staff supports ITL'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 of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate Number 5531 should be canceled administratively.

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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 \$3,500 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, Certificate Number 5531 should be canceled administratively and this docket should be closed. **(Elliott)**

STAFF ANALYSIS: This docket should remain open pending the remittance of the \$3,500 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, Certificate Number 5531 should be canceled administratively and this docket should be closed.



March 6, 2001

**Via Overnight Courier and
Fax 850 413-6547**

Ms. Kristin Craig
Florida Public Service Commission
Capitol Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Settlement Offer for Docket No. 010132-TX

Dear Ms. Craig:

After further investigation International Telcom, Ltd. ("ITL") has determined that our failure to file the Year 2000 Local Competition Report was through inadvertence. We sincerely regret this and have taken steps to make sure it does not happen again. ITL is currently implementing an entirely new set of procedures for tracking all regulatory reports and filings, and ensuring that they are timely submitted in the future. In addition, we are building a new data base and "tickle system" for improved handling of all regular filings as well as periodic requests for information, such as the 2000 report at issue here.

ITL wishes to propose settlement of this matter in the amount of three thousand five hundred dollars (\$3,500), payable in a lump sum within ten days of the Public Service Commission's written acceptance of this offer. International Telcom, Ltd. waives its right of objection to the administrative cancellation of its certificate, in the event its offer is accepted and it fails to comply with the terms it has offered.

Thank you for you help in this matter. If you have questions, please contact me at the above address or by telephone, fax or email at: Telephone: (206) 479-2353; Fax: (206) 479-3234; email: sandraa@ms.kallback.com.

Sincerely,

International Telcom, Ltd.

Sandra C. Adix
Corporate Counsel

cc: M. Wells
Y. Melendez

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DIVISION OF
COMPETITIVE SERVICES