



Public Service Commission
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COMMISSION
CLERK

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RECEIVED FPSC

DATE: SEPTEMBER 20, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *AK*
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAE*

RE: DOCKET NO. 010759-TX - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF ALTERNATIVE LOCAL EXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 5165 ISSUED TO U.S. TELCO, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 10/02/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010759.RCM

CASE BACKGROUND

- 06/21/97 - This company obtained Florida Public Service Commission Certificate No. 5165.
- 12/12/00 - The Division of the Commission Clerk & Administrative Services mailed the 2000 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2001.
- 02/21/01 - The Division of the Commission Clerk & Administrative Services mailed a delinquent notice for nonpayment of the 2000 RAF.
- 04/23/01 - The Commission received a letter from the company requesting cancellation of its certificate.

DOCUMENT NUMBER-DATE

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- **04/30/01** - Staff wrote the company a letter and explained that the 2000 RAF, including statutory penalty and interest charges for the years 1997, 1999, and 2000, must be paid prior to staff recommending a voluntary cancellation. In addition, staff advised that the company would either need to pay the 2001 RAF or provide a date certain it will be paid.
- **05/17/01** - Mr. Todd Meislahn, President, called staff and advised that the corporation had been dissolved and no longer exists. Mr. Meislahn stated that the company has no money to pay the past due RAF and understands that a voluntary cancellation cannot be recommended.
- **09/13/01** - As of this date, the company has not paid the past due amount nor the 2001 RAF or provided a date certain the 2001 RAF would be paid, in compliance with Rule 25-24.820, Florida Administrative Code.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant U.S. Telco, Inc. a voluntary cancellation of Certificate No. 5165?

RECOMMENDATION: No. The Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5165 on its own motion, effective April 23, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, which implements Section 364.336, Florida Statutes, requires the payment of regulatory assessment fees by January 30, or the next business day, 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.

Rule 25-24.820(2)(a), (b), (c), and (d), Florida Administrative Code, states:

- (2) If a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request. Cancellation of a certificate shall be ordered subject to the holder providing the required information.
 - (a) A statement of intent and date certain to pay regulatory assessment fee.
 - (b) A statement of why the certificate is proposed to be cancelled.
 - (c) A statement as to how customer deposits and final bills will be handled.
 - (d) Proof of individual customer notice regarding discontinuance of service.

Although the company requested cancellation of its certificate, Mr. Todd Meislahn, President, advised staff that it did not have the funds to pay the past due RAF.

Accordingly, the Commission should not grant the company a voluntary cancellation of its certificate. The Commission should cancel the company's Certificate No. 5165 on its own motion,

effective April 23, 2001. The collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the fees or cancellation of the certificate. (Elliott)

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, this docket should be closed upon the issuance of a Consummating Order and upon receipt of the fees or cancellation of the certificate.