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STATE OF FLORIDA



DIVISION OF COMPETITIVE SERVICES
WALTER D'HAESELEER
(850) 413-6600

Public Service Commission

November 2, 2001

Via Facsimile (813-221-8374)

Mr. Mark Cobb, President
USA Digital, Inc.
601 South Harbour Island Blvd., #103
Tampa, FL 33602-5927

RE: Docket No. 011059-TI

Dear Mr. Cobb:

This is a follow up to our telephone conversation yesterday. I had explained that when I pulled up the company's name, I discovered that this docket had also been established for nonpayment of the 2000 Regulatory Assessment Fee (RAF). The RAF is due each year by January 30 for the previous year, unless the 30th falls on a weekend, then the due date is the next working day. For example, the 2000 fee was due by January 30, 2001 and the 2001 fee will become due January 30, 2002 (the 2001 RAF notice will be mailed next month, around mid-December).

Commission records show that as of this date, the 2000 RAF has not been paid for your IXC certificate. The 2000 RAF return is attached. Please complete and return it along with payment for the past due amount in full. The RAF is .0015% of the company's total Florida gross revenues, or \$50.00, whichever is greater. However, if the company owes only the **minimum** amount and if payment is postmarked by November 26, 2001, the 2000 total is \$67.50 (\$50.00 fee, \$12.50 penalty, and \$5.00 interest). The interest charge for the 2000 RAF continues to accrue until paid.

Staff filed its recommendation on October 25th and the Commissioners will vote on this docket at the November 6, 2001 Agenda Conference to impose a \$500 fine for failure to pay the RAF. A Proposed Agency Action Order is scheduled to be issued by November 26, 2001. After the Order is issued, you will have 20 days to protest the Commission Order by proposing a settlement or requesting cancellation of your IXC certificate.

The company should file a petition, pursuant to Rule 28-106.201, F.A.C., copy attached. This petition must be filed with the Commission **after** the Order is issued **and** within the protest period. Rule 28-106.201(2)(g), F.A.C., states that the petition must include "A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the

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FPSC-COMMISSION CLERK

Mr. Mark Cobb, President

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agency's proposed action." A sample petition is attached. Your petition should include the following elements:

- Docket number;
- Order number and issue date of the Order;
- Payment for the past due amount in full;
- A statement requesting that the Commission consider this a protest and/or offer of settlement;
- A statement that the company has taken steps to prevent future late payments of the regulatory assessment fees and what those steps are;
- Make a specific monetary settlement (although the Commission imposed a \$500 fine, in other similar cases to yours, the Commission has accepted settlement proposals between \$100 and \$500); and
- A waiver of objection to the administrative cancellation of the company's certificate in the event its offer is accepted and it fails to comply with the terms which it has offered. If, however, there is a factual dispute as to the manner or level of compliance with any provision in the settlement, Commission staff will bring the matter to the Commission for consideration.


Any petition/correspondence should be addressed to Ms. Blanca Bayó, Director, Division of the Commission Clerk & Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. The proposed settlement amount should not be paid at this time, instead only the past due regulatory assessment fee, plus penalty and interest charges should be paid. The settlement amount, if approved by the Commission, will become due after the Commissioners vote on this issue.

If you file a timely petition proposing a settlement, a new Agenda Conference date will be scheduled. At that time, the Commissioners will vote on whether or not to accept your settlement offer. An Order will then be issued and you will have 10 business days from the date of the Order to pay the settlement.

The past due amount and petition must be received after the Order is issued, but before the end of the protest period. If you have any questions, just let me know. I can be reached at (850) 413-6502-voice, (850) 413-6503-fax, and by internet e-mail at pisler@psc.state.fl.us.

Mr. Mark Cobb, President
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Sincerely,

A handwritten signature in black ink that reads "Paula J. Isler". The signature is written in a cursive style with a large initial "P" and a distinct "J" and "I".

Paula J. Isler, Research Assistant
Bureau of Service Quality

Attachments

cc: Docket No. 011059-TI
Division of Legal Services (Elliott)

Interexchange Company Regulatory Assessment Fee Return

Florida Public Service Commission

(See Filing Instructions on Back of Form)

STATUS:

- Actual Return
- Estimated Return
- Amended Return

PERIOD COVERED:
05/10/2000 TO 12/31/2000

TJ361-00-0-R
 USA Digital, Inc.
 601 South Harbour Island Blvd., #103
 Tampa, FL 33602-5927
 Docket No. 011059-TI

FOR PSC USE ONLY

Check# _____

\$ _____ 0603001
 _____ 003001

\$ _____ P _____
 _____ 0603001
 _____ 004011

\$ _____ I _____

Postmark Date _____

Initials of Preparer _____

Please Complete Below If Official Mailing Address Has Changed

(Name of Company)	(Address)	(City/State)	(Zip)
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LINE NO.	ACCOUNT CLASSIFICATION	FLORIDA GROSS OPERATING REVENUE	INTRASTATE REVENUE
1.	Long Distance Services	\$ _____	\$ _____
2.	Access Services	_____	_____
3.	Private Line Services	_____	_____
4.	Leased Facilities & Circuits Services	_____	_____
5.	Miscellaneous Services	_____	_____
6.	TOTAL Telephone Services	\$ _____	\$ _____
7.	LESS: Amounts Paid to Other Telecommunications Companies* (see "2. Fees" on back)	(_____)	(_____)
8.	TOTAL REVENUES For Regulatory Assessment Fee Calculation	_____	_____
9.	Regulatory Assessment Fee Due (Multiply Line 8 by 0.0015)	_____	_____
10.	Penalty for Late Payment (see "3. Failure to File by Due Date" on back)	_____	_____
11.	Interest for Late Payment (see "3. Failure to File by Due Date" on back)	_____	_____
12.	TOTAL AMOUNT DUE	_____	\$ _____

* These amounts must be intrastate only and must be verifiable.

AS PROVIDED IN SECTION 364.336, FLORIDA STATUTES, THE MINIMUM ANNUAL FEE IS \$50

CURRENT COMPANY STATUS

- | | | |
|---|-----------------------------------|--|
| <input type="checkbox"/> Facilities-Based Carrier | <input type="checkbox"/> Reseller | <input type="checkbox"/> Call Aggregator |
| <input type="checkbox"/> Alternate-Operator Service | <input type="checkbox"/> Rebiller | <input type="checkbox"/> Other: _____ |

BILLING INFORMATION

Complete below if billing agent if other than yourself.

(Name)	(Address: City/State/Zip)	(Telephone)
What is the total amount of customer deposits collected? Amount: \$ _____ for 19 _____	What is the total amount of bond held (if applicable)? Amount: \$ _____ Expires: _____	

COMPANY INFORMATION

Do you lease telecommunications' facilities? YES NO

If YES, who do you lease these facilities from? Name: _____

Address: _____

I, the undersigned owner/officer of the above-named company, have read the foregoing and declare that to the best of my knowledge and belief the above information is a true and correct statement. I am aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his/her duty shall be guilty of a misdemeanor of the second degree.

(Signature of Company Official)	(Title)	(Date)
(Preparer of Form - Please Print Name)	Telephone Number () _____	Fax Number () _____

FLORIDA PUBLIC SERVICE COMMISSION
Instructions For Filing Regulatory Assessment Fee Return
(Interexchange Company)

1. **WHEN TO FILE:** For companies which owed a total of \$10,000 or more of assessment fee for the preceding calendar year, this Regulatory Assessment Fee Return and payment must be filed or postmarked:

*On or before July 30 for the six-month period January 1 through June 30, AND
On or before January 30 for the six-month period July 1 through December 31.*

For companies which owed a total of less than \$10,000 of assessment fee for the preceding calendar year, this Regulatory Assessment Fee Return and payment must be filed or postmarked:

On or before January 30 for the twelve-month period January 1 through December 31.

However, if July 30 or January 30 falls on a Saturday, Sunday, or holiday, the Regulatory Assessment Fee may be filed or postmarked on the next business day, without penalty.

2. **FEES:** Each company shall pay 0.0015 of its gross operating revenues derived from intrastate business, as referenced in Rule 25-4.0161(1), F.A.C. Gross Operating Revenues are defined as the total revenues before expenses. Gross Intrastate Operating Revenues are defined as revenues from calls originating and terminating within Florida. Do not deduct any expenses, taxes, or uncollectibles from these amounts other than the amount in Line 7.

On Line 7, deduct any amounts paid to another telecommunications company for the use of any telecommunications network to provide service to its customers. **Do not deduct** any taxes, federal subscriber line charges, interstate long distance access charges, or amounts paid for nonregulated services such as voice mail, inside wire maintenance, or equipment purchases/rentals. **DEDUCTIONS MUST BE INTRASTATE ONLY AND MUST BE VERIFIABLE.**

3. **FAILURE TO FILE BY DUE DATE:** Failure to file a return by the established due date will result in a penalty being added to the amount of fee due, 5% for each 30 days or fraction thereof, not to exceed a total penalty of 25% (Line 10). In addition, interest shall be added in the amount of 1% for each 30 days or fraction thereof, not to exceed a total of 12% per year (Line 11). A Regulatory Assessment Fee Return must be completed, signed, and filed even if there are no revenues to report or if the minimum amount is due.

When a company fails to timely file a Regulatory Assessment Fee Return, the Commission has the authority to order the company to pay a penalty and/or cancel the company's certificate. The company will have an opportunity to respond to any proposed Commission action.

4. **EXTENSION:** A request for an extension of time up to 30 days may be made by filing the enclosed *Request for Extension to File Regulatory Assessment Fee Return* form (PSC/ADM-124), two weeks prior to the filing date. When an extension is granted, a charge shall be added to the amount due:

0.75% of the fee to be remitted for an extension of 15 days or less, or
1.5% of the fee for an extension of 16 to 30 days.

In lieu of paying the charges outlined above, a company may file a return and remit payment based upon estimated gross operating revenues. If such return is filed by the normal due date, the company shall be granted a 30-day extension period in which to file and remit the actual fee due without paying the above charges, provided the estimated fee payment remitted is at least 90% of the actual fee due for the period. An automatic 30-day extension to file an actual return may be obtained by checking the "Estimated Return" space in the top left-hand corner on the reverse side.

5. **FEE ADJUSTMENTS:** You will be notified as to the amount and reason for any fee adjustment. Penalty and interest charges may be applicable to additional amounts owed the Commission by reason of the adjustment. The company may file a written request for a refund of any overpayments. The request should be directed to Fiscal Services at the below-referenced address.
6. **MAILING INSTRUCTIONS:** Please complete this form, make a copy for your files, and return the original and in the enclosed preaddressed envelope. Use of this envelope should assure a more accurate and expeditious recording of your payment. **Make your check payable to the Florida Public Service Commission.** If you are unable to use the envelope, please address your remittance as follows:

Florida Public Service Commission 2540 Shumard Oak Boulevard Tallahassee, FL 32399-0850 ATTENTION: Fiscal Services

7. **ADDITIONAL ASSISTANCE:** If you need additional assistance in preparing your Regulatory Assessment Fee Return or regarding telecommunications facilities, please contact the Division of Competitive Services at (850) 413-6600. This division may be contacted at the above-referenced address, directing correspondence to the attention of the division.

PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 ½ by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

(4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

(5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

Sample

July 12, 2001

Ms. Blanca Bayo, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32309-0850

Dear Ms. Bayo:

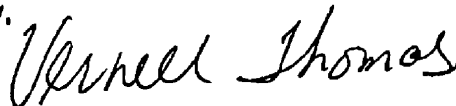
This is in response to Order No. PSC-01-1409-PAA-TC issued June 29, 2001 in Docket No. 010427-TC. Please consider this a protest and/or an offer of settlement.

We have had this pay telephone certificate since 1992 and this is the first year that the Florida Public Service Commission has had to establish a docket to collect the regulatory assessment fee. The reason I did not pay it prior to this is because I did not receive the form. After talking with Commission staff, I now understand that the form is mailed every mid-December and the fee is due by the following January 30. I will make sure that this problem does not reoccur because El Toro does want to keep its certificate active. My check in the amount of \$65.50 for the 2000 fee, including penalty and interest, is enclosed.

El Toro Barber Shop agrees to waive any objection to the administrative cancellation of its certificate should it fail to pay in accordance with its settlement offer. If, however, there is a factual dispute as to the manner or level of compliance with any provision in the settlement, it is our understanding that Commission staff will bring the matter to the Commission for consideration.

Based on this, I respectfully request that the Commission accept my proposal to pay a \$100 settlement instead of the \$500 fine imposed. Please let me know if you have any questions.

Sincerely,



Vernell Thomas
El Toro Barber Shop
4208 NW 12th Street
Lauderhill, FL 33313-5817
(954) 583-9668

DOCUMENT NUMBER-DATE

08680 JUL 17 5

FPSC-COMMISSION CLERK

TRANSMISSION VERIFICATION REPORT

TIME : 11/02/2001 08:55
NAME :
FAX :
TEL :

DATE, TIME
FAX NO. /NAME
DURATION
PAGE(S)
RESULT
MODE

11/02 08:52
618132218374
00:02:58
07
OK
STANDARD
ECM