

State of Florida



Public Service Commission

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COMMISSION CLERK

DATE: NOVEMBER 7, 2001
TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Dji* *MD*
DIVISION OF LEGAL SERVICES (K. PEÑA; B. KEATING) *KMP* *BK*
RE: DOCKET NO. 010868-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 3562 ISSUED TO RAPID LINK USA, INC. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.
AGENDA: 11/19/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE
CRITICAL DATES: NONE
SPECIAL INSTRUCTIONS: NONE
FILE NAME AND LOCATION: S:\PSC\CMP\WP\010868.RCM

CASE BACKGROUND

- 07/06/94 - This company was granted Florida Public Service Commission Certificate No. 3562.
- 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.
- 06/18/01 - Staff established this docket for nonpayment of the 2000 RAF.

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- **08/10/01** - Staff wrote the company and explained that this docket had been established and to contact staff if it was interested in resolving the docket.
- **08/20/01** - Ms. Tisa Dukes, Consultant, contacted staff on behalf of Rapid Link USA, Inc. and advised she had received staff's August 10, 2001 letter and stated that the company would pay the past due balance and resolve this docket.
- **09/21/01** - The Commission received the company's payment of the 2000 RAF, including most of the penalty and interest charges. The company reported revenues in the amount of \$15,126.47 for the period ended December 31, 2000.
- **10/05/01** - Staff called Ms. Dukes and advised of the small past due penalty and interest balance and advised that the Commission has not received a settlement proposal or request for cancellation. Ms. Dukes stated she would notify the company.
- **10/15/01** - The Commission received the past due penalty and interest balance.
- **10/23/01** - As of this date, the company has not proposed a settlement or requested cancellation of its certificate.

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 impose a \$500 fine or cancel Rapid Link USA, Inc.'s certificate 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 the company's certificate if the fine is 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 is not received, the company's Certificate No. 3562 should be cancelled administratively. (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 a 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 the Commission Clerk & Administrative Services' records showed that the company had not paid its 2000 regulatory assessment fee, plus statutory penalty and interest charges; therefore, this docket was established. The company subsequently paid the 2000 RAF, including statutory penalty and interest charges. However, as of October 23, 2001, the company has not requested cancellation of its certificate or proposed a settlement. Therefore, it appears the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies and has not requested cancellation of its certificate in compliance with Rule 25-24.474,

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Florida Administrative Code. This fine amount is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 fine or cancel the company's certificate if the fine is 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 is not received, the company's Certificate No. 3562 should be cancelled administratively.

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 the issuance of the Proposed Agency Action Order. The docket should then be closed upon receipt of the fine or cancellation of the certificate. (K. Peña; B. Keating)

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 issuance of a Consummating Order and upon receipt of the fine or cancellation of the certificate.