

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-**

RECEIVED FPSC  
FEB 21 AM 9:05  
COMMISSION CLERK

**DATE:** FEBRUARY 21, 2002

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

**FROM:** DIVISION OF COMPETITIVE MARKETS AND ENFORCEMENT (SIMMONS) OFFICE OF THE GENERAL COUNSEL (B. KEATING, K. PEÑA) *SAS [initials]* *KMP*

**RE:** DOCKET NO. 011008-TI - APPLICATION FOR CERTIFICATE TO PROVIDE INTEREXCHANGE TELECOMMUNICATIONS SERVICE BY TELECUBA, INC.

**AGENDA:** 03/05/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\011008A.RCM

### CASE BACKGROUND

On August 3, 2001, TELECUBA, INC. (TELECUBA) filed an application to provide interexchange telecommunications service (IXC) in Florida. Although not mentioned in the application, during staff's review it was discovered that TELECUBA had previously been involved in Docket No. 960217-TI, Initiation of Show Cause Proceeding for Violation of Rule 25-24.470, Florida Administrative Code, Certification of Public Convenience and Necessity Required.

In the Show Cause docket the Commission accepted TELECUBA's settlement offer of a \$7,000 contribution to the Florida General Revenue Fund, placement of advertisement indicating how to obtain a refund in the local media where non-working cards were sold, and verification of \$12,055.00 in refunds to affected customers of non-

DOCUMENT NUMBER-DATE

02038 FEB 21 02

FPSC-COMMISSION CLERK

working cards. As part of the settlement offer, TELECUBA explained that it was operating as a marketer and distributor of the cards and not as a reseller. The proposal also requested that the IXC application of World Long Distance, Inc. (Docket No. 960295-TI) be promptly processed. Staff had withheld processing that application due to the show cause proceeding and because the sole office holder and shareholder was the same for TELECUBA and World Long Distance, Inc.

On July 30, 1997, World Long Distance, Inc.'s IXC certificate became active. On February 7, 2000, the certificate was canceled in Docket No. 991542-TI for nonpayment of Regulatory Assessment Fees for 1998 and for violation of Rule 25-24.480, Florida Administrative Code, which requires notification of any company address change. When the certificate was canceled, the company owed regulatory assessment fees for 1998, 1999, and 2000.

On August 10, 2001, staff informed TELECUBA's application liaison office of the omission of the above information in the application. On September 25, 2001, revised application pages 8 and 9 were filed. The company also stated, "As set forth in the Application, as amended, TELECUBA is willing to pay to the Commission any outstanding fees, penalties, fines or interest accrued by World Long Distance, Inc., a former affiliate of the Applicant."

On October 30, 2001, staff sent a certified letter to the application liaison office expressing staff's concerns with the applicant's history with this Commission. On November 2, 2001, TELECUBA responded by stating that the company now had "an in-house person dedicated to state and federal regulatory matters" and was contracting with an outside corporation to help manage regulatory matters. In the November response TELECUBA also mentioned its Section 214 authority from the Federal Communication Commission to provide international services and its License Agreement under the Cuban Assets Control Regulation of the United States Department of Treasury to negotiate for the provision of service between the United States and Cuba as proof of TELECUBA's "ability to operate within the rules and regulations as an interexchange company..."

On January 4, 2002, the Commission received the 1998, 1999, and 2000 regulatory assessment fees with penalties and interest for World Long Distance, Inc. On February 12, 2002, the Commission

received the \$1,000 fine imposed on World Long Distance, Inc. in Docket No. 991542-TI.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.335 and 364.337, Florida Statutes. Accordingly, staff believes the following recommendation is appropriate.

### DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission grant TELECUBA, INC. a certificate to provide interexchange telecommunications service within the State of Florida as provided by Section 364.337(3), Florida Statutes?

**STAFF RECOMMENDATION:** Yes. TELECUBA, INC. should be granted Interexchange Telecommunications Service Certificate No. 8055 to operate within Florida. (Simmons, B. Keating)

**STAFF ANALYSIS:** Section 364.337(3), Florida Statutes, reads:

The Commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

TELECUBA, INC. filed an application with this Commission on August 3, 2001, to offer interexchange telecommunications service in Florida. A review of the history of this applicant indicates that one person is the sole office holder and shareholder of TELECUBA and an affiliate company, World Long Distance, Inc. Both companies have been involved in previous dockets involving regulatory compliance issues.

On October 30, 2001, staff sent a certified letter to the application liaison office expressing staff's concerns with the

applicant's history with this Commission. TELECUBA's November 2, 2001 response to staff's letter of concern indicated that the company now had an "in-house person dedicated to state and federal regulatory matters." The "in-house person" also handles customer service and accounting matters. In addition, the attorney for TELECUBA stated that the company was contracting with Telecom Compliance Services, Inc. for regulatory compliance matters and was willing to pay any outstanding fees, penalties, fines or interest owed by World Long Distance, Inc. The letter further stated, "The Commission has the company's assurances that all authorizations will be kept current, and there will be no further penalties or revocations." These were positive developments and indicated TELECUBA's interest in addressing staff's concerns. At this point, however, the company was planning to have three regulatory liaisons, which created too many coordination issues in staff's opinion.

On January 4, 2002, the Commission received the 1998, 1999, and 2000 regulatory assessment fees with penalties and interest for World Long Distance, Inc. On February 12, 2002, the Commission received the \$1,000 fine imposed on World Long Distance, Inc. in Docket No. 991542-TI. By making payment in full for this affiliate, staff believes this demonstrates some level of accountability for these past infractions. In addition, these past infractions could be viewed as administrative in nature, instead of conscious violations of Commission rules and regulations.

By letter dated February 19, 2002, TELECUBA informed the Commission that it has hired an attorney who is licensed to practice law in the State of Florida, who will act as the single point of contact with the Commission for regulatory compliance. By having one regulatory liaison, TELECUBA has addressed staff's concerns with the coordination issues described above.

TELECUBA has made payment in full for the outstanding regulatory assessment fees, including penalties and interest, and the associated fine imposed in Docket No. 991542-TI. Also, TELECUBA has committed to a regulatory compliance plan that addresses staff's concerns. Accordingly, staff recommends that TELECUBA, INC. should be granted Interexchange Telecommunications Service Certificate No. 8055 to operate within Florida.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon the expiration of the protest period and issuance of a Consummating Order. If a person whose substantial interests are affected by the Commission's proposed agency action files a written protest within 21 days of the issuance date of the proposed agency action, the docket should remain open. **(B. Keating, K. Peña)**

**STAFF ANALYSIS:** If staff's recommendation on Issue 1 is approved, the result will be a proposed agency action order. This docket should be closed upon the expiration of the protest period and issuance of a Consummating Order. If a person whose substantial interests are affected by the Commission's proposed agency action files a written protest within 21 days of the issuance date of the proposed agency action, the docket should remain open.