

State of Florida



Public Service Commission
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

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RECEIVED-FPSC

DATE: MAY 9, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Dji*
OFFICE OF THE GENERAL COUNSEL (K. PEÑA; B. KEATING) *KMP 5/12*

RE: DOCKET NO. 010914-TI - CANCELLATION BY FLORIDA PUBLIC
SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS
CERTIFICATE NO. 2385 ISSUED TO WORLD ACCESS COMMUNICATIONS
CORP. FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY
ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 05/21/02 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\010914.RCM

CASE BACKGROUND

- 11/16/89 - This company was granted Florida Public Service Commission Interexchange Company (IXC) Certificate No. 2385.
- 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.
- 06/26/01 - This docket was established for nonpayment of the 2000 RAF, including statutory penalty and interest charges.

DOCUMENT NUMBER-DATE

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- **07/18/01** - A company representative called staff and stated they found out through the Commission's Internet website that this docket had been established. The representative requested that the 2000 RAF return form be faxed to the company since it wished to keep its certificate active and advised a settlement proposal would be filed.
- **08/02/01** - Mr. Jim Dickey, the company's attorney, called staff and requested that the company's options to resolve the docket be faxed to him. Options were faxed the next day.
- **12/12/01** - Order No. PSC-01-2405-PAA-TI was issued, which imposed a \$500 penalty or cancelled the company's certificate. The company had until January 2, 2002, to respond to the Order. No response was received, therefore, a Consummating Order was issued on January 4, 2002.
- **01/18/02** - The Commission received the company's 2001 RAF return and payment. The company reported no revenues for calendar year 2001. According to Commission records, the 2000 RAF remained unpaid.
- **02/01/02** - Mr. Jim Dickey called staff concerning the cancellation of the company's certificate. Mr. Dickey advised staff that the past due RAF for calendar year 2000, including penalty and interest charges, had been paid and that the company had submitted a settlement offer on August 3, 2001.
- **04/01/02** - After several telephone calls between staff and Mr. Dickey, it was determined that the company had paid the 2000 RAF for its alternative local exchange company (ALEC) certificate, but not the IXC certificate. It was also determined that the Commission had received the settlement proposal on August 7, 2001, but inadvertently, technical staff had not been provided a copy.
- **04/09/02** - The Commission received the company's payment of the past due amount in full. This docket was reopened to address the settlement proposal.

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 vacate, in part, Order No. PSC-01-2405-PAA-TI and accept the settlement offer proposed by World Access Communications Corp. to resolve the apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should vacate, in part, Order No. PSC-01-2405-PAA-TC, as it pertains to this docket. In addition, the Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the 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 General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 2385 should be canceled administratively. If World Access Communications Corp.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, World Access Communications Corp. should be required to immediately cease and desist providing interexchange telecommunications services in Florida. (Isler; K. Peña; B. Keating)

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.

This docket was established for nonpayment of the 2000 RAF, plus statutory penalty and interest charges. Order No. PSC-01-2405-PAA-TI was issued on December 12, 2001, which imposed a \$500 penalty or cancelled the company's IXC certificate. No protest to the Order was received, therefore, the certificate was cancelled. Technical staff was unaware that the company had filed a settlement proposal to resolve this docket prior to the Commission vote on December 4, 2001. The settlement proposal offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis. In addition, the company's settlement proposal included a waiver of objection to the administrative cancellation of the company's certificate in the event the settlement proposal is accepted and

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the company ultimately fails to comply with the terms of its offer. The recommended settlement amount is consistent with amounts the Commission has accepted for recent, similar violations.

The company advised staff that in addition to proposing a settlement, it had filed the 2000 RAF, including statutory penalty and interest charges. However, after researching the records, it was discovered that the company had filed its 2000 RAF for its ALEC certificate. The RAF for the IXC certificate remained unpaid. The company subsequently paid the 2000 RAF, including all penalty and interest charges.

Therefore, staff believes the Commission should vacate, in part, Order No. PSC-01-2405-PAA-TC, as it pertains to this docket. In addition, the Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within fourteen (14) calendar days from the 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 General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 2385 should be canceled administratively. If World Access Communications Corp.'s certificate is cancelled in accordance with the Commission's Order from this recommendation, World Access Communications Corp. should be required to immediately cease and desist providing interexchange telecommunications services in Florida.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: If the Commission approves staff's recommendation on Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate. (K. Peña; B. Keating)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, this docket should be closed upon receipt of the \$100 contribution or cancellation of the certificate.