

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK

DATE: JULY 11, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *AS*
OFFICE OF THE GENERAL COUNSEL (L. FORDHAM) *c.f. - AL*

RE: DOCKET NO. 020515-TI - FINDING OF INSOLVENCY CANCELLATION
BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERT. NO. 7175
ISSUED TO INTERGLOBAL TELEPHONE COMPANY D/B/A ITC FOR
VIOLATION OF RULE 25-24.0161, F.A.C., REGULATORY
ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 07/23/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020515.RCM

CASE BACKGROUND

- **10/15/99** - This company was granted Interexchange Carrier (IXC) Certificate No. 7175.
- **01/31/01** - The Commission received the company's 2000 Regulatory Assessment Fee (RAF) return. The company reported no revenues for the period ended December 31, 2000.
- **12/12/01** - The Division of the Commission Clerk & Administrative Services mailed the 2001 RAF return form. Payment was due by January 30, 2002.
- **02/22/02** - The Office of the General Counsel mailed a delinquent notice for nonpayment of the 2001 RAF.

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- **05/21/02** - Staff wrote the company and explained that the company had a small past due penalty and interest balance for late payment of the 2000 RAF and that the 2001 RAF, plus statutory penalty and interest charges, had not been paid. Staff advised that the past due amount needed to be paid to avoid a docket being opened for an involuntary cancellation.
- **06/06/02** - The Commission received a letter from Ms. Angelina M. Diaz of Michael Moecker & Associates, Inc., which advised that the company had been out of business since September 26, 2001 and attached a copy of a "Notice of Assignment" order.
- **07/03/02** - As of this date the past due RAF, including penalty and interest charges, has not been paid.

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 Interglobal Telephone Company d/b/a ITC's request for cancellation of its IXC Certificate No. 7175 due to the finding of insolvency?

RECOMMENDATION: Yes. The Commission should grant the company a finding of insolvency cancellation of its IXC Certificate No. 7175 with an effective date of June 6, 2002. In addition, the Division of the Commission Clerk & Administrative Services will be notified that the 2001 and 2002 RAFs, including statutory penalty and interest charges for the years 2000 and 2001, should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write-off the uncollectible amount should be requested. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing interexchange carrier telecommunications service in Florida. (Isler; L. Fordham)

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 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 25-24.474, Florida Administrative Code, establishes the requirements for cancellation of certificates. On June 6, 2002, the Commission received a letter from Ms. Angelina Diaz of Michael Moecker & Associates, Inc., which advised that the company has been out of business since September 26, 2001. Ms. Diaz enclosed a "Notice of Assignment" order dated October 1, 2001, from the Circuit Court of the 17th Judicial Circuit in Broward County. The order stated that the company had filed a petition "commencing an Assignment for the benefit of creditors proceeding pursuant to Chapter 727, Florida Statutes" and stated claims must be filed before January 24, 2002. The Commission did not receive the order in time to file a claim.

Basically, a finding of insolvency is the state equivalent of a federal bankruptcy case. It is a procedure for the administration of insolvent estates, administered by the circuit courts of Florida. The statute provides only for liquidation

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instead of provisions for efforts to reorganize and survive as is provided in the Federal Bankruptcy Code.

Therefore, staff believes the Commission should grant the company a finding of insolvency cancellation of its IXC Certificate No. 7175 with an effective date of June 6, 2002. In addition, the Division of the Commission Clerk & Administrative Services will be notified that the 2001 and 2002 RAFs, including statutory penalty and interest charges for the years 2000 and 2001, should not be sent to the Comptroller's Office for collection, but that permission for the Commission to write-off the uncollectible amount should be requested. If the certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing interexchange carrier telecommunications service in Florida.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: 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.
(L. Fordham)

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.