

State of Florida



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

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DATE: OCTOBER 3, 2002
TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *DJK*
OFFICE OF THE GENERAL COUNSEL (DODSON, TEITZMAN; ELLIOTT; *JAE*
PA CHRISTENSEN; W. KNIGHT; L. FORDHAM) *PAK 2-5-02*
RE: CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.
AGENDA: 10/15/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE
CRITICAL DATES: NONE
SPECIAL INSTRUCTIONS: NONE
FILE NAME AND LOCATION: S:\PSC\CMP\WP\020654.RCM

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CASE BACKGROUND

This recommendation deals with the enforcement actions against interexchange carriers (IXCs) for nonpayment of the Regulatory Assessment Fees (RAFs). Staff is recommending that first time offenders be penalized \$500, second time offenders be penalized \$1,000, and that the third time offender's certificate be cancelled.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.337, Florida Statutes. The following docket numbers are addressed by this recommendation.

DOCUMENT NUMBER DATE

10662 OCT-30

FPSC-COMMISSION CLERK

DOCKET NO. 020654-TI & Others
DATE: OCTOBER 3, 2002

1st Time Offenders - Nonpayment of RAFs - \$500 Penalty

DOCKET NO. 020654-TI - CAPSULE COMMUNICATIONS, INC.
DOCKET NO. 020655-TI - ATLAS COMMUNICATION CONSULTANTS, INC.
DOCKET NO. 020656-TI - EQUALNET CORPORATION
DOCKET NO. 020658-TI - CTS TELCOM, INC.
DOCKET NO. 020659-TI - AMERICAN TELESOURCE INTERNATIONAL, INC.
DOCKET NO. 020661-TI - FEDERAL TRANSTEL, INC.
DOCKET NO. 020662-TI - URSUS TELECOM CORP.
DOCKET NO. 020663-TI - BLUE SHIFT TELECOM, LTD.
DOCKET NO. 020676-TI - TELCAM, TELECOMMUNICATIONS COMPANY OF THE AMERICAS, INC.
DOCKET NO. 020679-TI - UNITED SERVICES TELEPHONE, LLC
DOCKET NO. 020688-TI - TELECOM NETWORK SYSTEM INTERNATIONAL, INC. D/B/A TNS
DOCKET NO. 020691-TI - 2ND CENTURY COMMUNICATIONS, INC.
DOCKET NO. 020696-TI - USC TELECOM, INC.
DOCKET NO. 020698-TI - I-TELECO.COM, INC.
DOCKET NO. 020699-TI - CONNECT!LD, INC.
DOCKET NO. 020704-TI - BROADRIVER COMMUNICATION CORPORATION
DOCKET NO. 020705-TI - MULTIPHONE LATIN AMERICA, INC.
DOCKET NO. 020716-TI - CYBERTEL, COMMUNICATIONS CORP.
DOCKET NO. 020717-TI - EVULKAN, INC. D/B/A BEMANY!
DOCKET NO. 020718-TI - RADIO COMMUNICATIONS CORPORATION D/B/A RCC RADIO COMMUNICATIONS CORPORATION
DOCKET NO. 020723-TI - GLOBAL BROADBAND, INC.
DOCKET NO. 020728-TI - BACKBONE COMMUNICATIONS INC.
DOCKET NO. 020729-TI - EUREKA TELECOM, LLC
DOCKET NO. 020730-TI - EVOLUTION NETWORKS SOUTH, INC.
DOCKET NO. 020734-TI - SUMMIT TELCO, L.L.C.
DOCKET NO. 020736-TI - RAPTEL COMMUNICATIONS, LLC
DOCKET NO. 020750-TI - QUICK TEL, INC.
DOCKET NO. 020751-TI - TOTALCOM AMERICA CORPORATION
DOCKET NO. 020752-TI - INTELLECARE.FL., INC.
DOCKET NO. 020754-TI - MIKETRONICS, INC.
DOCKET NO. 020758-TI - AVENTURA NETWORKS, INC.

2nd Time Offenders - Nonpayment of RAFs - \$1,000 Penalty

DOCKET NO. 020660-TI - INTERCONTINENTAL COMMUNICATIONS GROUP, INC. D/B/A FUSION TELECOM, ALSO D/B/A FUSION - TRUCKER D/B/A CALL-4-LESS
DOCKET NO. 020671-TI - WORLD TELECOMMUNICATIONS SERVICES, INC.

DOCKET NO. 020654-TI & Others
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DOCKET NO. 020672-TI - STARLINK COMMUNICATIONS, LLC
DOCKET NO. 020686-TI - AXSYS, INC./TEL PTNS
DOCKET NO. 020690-TI - LONG DISTANCE AMERICA, INC.
DOCKET NO. 020693-TI - ACG TELECOM SERVICES INCORPORATED
DOCKET NO. 020697-TI - OZARK TELECOM, INC.
DOCKET NO. 020700-TI - UNITED TECHNOLOGICAL SYSTEMS, INC.
DOCKET NO. 020703-TI - FAIRPOINT COMMUNICATIONS SOLUTIONS CORP.

3rd Time Offender - Nonpayment of RAFs - Cancellation of Certificate

DOCKET NO. 020687-TI - ITELSA (USA), INC.

DISCUSSION OF ISSUES

1st Time Offenders - Nonpayment of RAFs - \$500 Penalty

ISSUE 1: Should the Commission impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should impose a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing interexchange carrier telecommunications services in Florida. (Isler; Dodson; Teitzman; Elliott; Christensen; W. Knight)

STAFF ANALYSIS: Each of the telecommunications providers listed on Attachment A have not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.474, Florida Administrative Code. The penalty amount recommended in these

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dockets is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$500 penalty or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment A, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing interexchange carrier telecommunications services in Florida.

2nd Time Offenders - Nonpayment of RAFs - \$1,000 Penalty

ISSUE 2: Should the Commission impose a \$1,000 penalty or cancel each company's respective certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should impose a \$1,000 penalty or cancel each company's respective certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment B, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment B, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing interexchange carrier telecommunications services in Florida. (Isler; Teitzman; Elliott; Dodson; L. Fordham)

STAFF ANALYSIS: Each of the companies listed on Attachment B have not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. This is the second docket opened against each company for nonpayment of the RAF. In each of the prior dockets, the companies listed on Attachment B either paid a penalty or settlement amount to resolve the dockets. Therefore, it appears the companies have failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.474, Florida Administrative Code. The penalty amount recommended in

DOCKET NO. 020654-TI & Others

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these dockets is consistent with amounts imposed for recent, similar violations.

Accordingly, staff recommends that the Commission assess a \$1,000 penalty or cancel each company's respective certificate as listed on Attachment B for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code, if the penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The penalty 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 a company does not protest the Commission's Order or the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, are not received, that company's certificate, as listed on Attachment B, should be cancelled administratively and the collection of the past due fees should be referred to the Office of the Comptroller for further collection efforts. If a company's certificate, as listed on Attachment B, is cancelled in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing interexchange carrier telecommunications services in Florida.

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3rd Time Offender - Nonpayment of RAFs - Cancellation of Certificate

ISSUE 3: Should the Commission cancel iTELSA (USA), Inc.'s Certificate No. 5672 as listed on Attachment C for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code?

RECOMMENDATION: Yes. The Commission should cancel iTELSA (USA), Inc.'s Certificate No. 5672 as listed on Attachment C for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Office of the Comptroller for further collection efforts. If the Commission's Order is not protested, the company's Certificate No. 5672 as listed on Attachment C should be cancelled administratively. If iTELSA (USA), Inc.'s certificate as listed on Attachment C is cancelled in accordance with the Commission's Order from this recommendation, iTELSA (USA), Inc. should be required to immediately cease and desist providing interexchange telecommunications services in Florida. (Isler; Christensen)

STAFF ANALYSIS: iTELSA (USA), Inc. has not paid its 2001 Regulatory Assessment Fee, plus statutory penalty and interest charges. iTELSA (USA), Inc. has a history of late payments. The company's certificate became effective July 14, 1998, and every year the company has paid the Regulatory Assessment Fee after the due date. In addition, two other dockets were established for nonpayment of the Regulatory Assessment Fees. In Docket No. 991824-TI, Order No. PSC-00-0520-AS-TI was issued on March 9, 2000, which approved the company's \$100 settlement, and in Docket No. 010735-TI, Order No. PSC-01-1991-AS-TI issued October 8, 2001, approved the company's \$500 settlement. In both prior dockets, the company proposed to pay future RAFs on a timely basis. Therefore, it appears that the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and is in noncompliance with its previous settlement proposals.

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Since this is the third docket established for nonpayment of the RAFs, iTELSA (USA), Inc. should be well aware when the fees are due each year. The cancellation of a certificate for a third offense is consistent with a prior Commission decision. In Docket No. 000968-TC, by Order No. PSC-00-1815-PAA-TC, issued October 4, 2000, the Commission cancelled James M. Bracewell d/b/a Southern Tele-Communications' pay telephone certificate for violating the RAF rule in three separate dockets (Nos. 971340-TC, 981273-TC, and 000968-TC). Therefore, staff believes that cancellation of the company's certificate is appropriate.

Accordingly, staff recommends that the Commission should cancel iTELSA (USA), Inc.'s Certificate No. 5672 as listed on Attachment C for apparent violation of Rule 25-4.0161, Florida Administrative Code, incorporated by Rule 25-24.480, Florida Administrative Code. If the past due fee, including statutory penalty and interest charges, is not received within fourteen (14) calendar days after the issuance of the Consummating Order, the amount shall be turned over to the Office of the Comptroller for further collection efforts. If the Commission's Order is not protested, the company's Certificate No. 5672 as listed on Attachment C should be cancelled administratively. If iTELSA (USA), Inc.'s certificate as listed on Attachment C is cancelled in accordance with the Commission's Order from this recommendation, iTELSA (USA), Inc. should be required to immediately cease and desist providing interexchange telecommunications services in Florida.

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ISSUE 4: Should these dockets be closed?

RECOMMENDATION: The Orders issued from these recommendations will become final upon issuance of Consummating Orders, 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 Orders. The dockets should then be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final. (Dodson; Teitzman; Elliott; Christensen; W. Knight; L. Fordham)

STAFF ANALYSIS: Whether staff's recommendations on Issue 1, 2, and 3 are approved or denied, the result will be Proposed Agency Action Orders. If no timely protest to the Proposed Agency Actions are filed within 21 days of the date of issuance of the Orders, these dockets should be closed upon receipt of the penalty and fees or cancellation of each company's respective certificate. A protest in one docket should not prevent the action in a separate docket from becoming final.

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1st Time Offenders - Nonpayment of RAFs - \$500 Penalty

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020654-TI	Capsule Communications, Inc. \$149,838 Revenues 12/31/00	2993	2001	1998 1999 2001
020655-TI	Atlas Communication Consultants, Inc. \$0 Revenues 12/31/00	3520	2001	2001
020656-TI	EqualNet Corporation \$72,929 Revenues 12/31/00	3488	2001	1997 2000 2001
020658-TI	CTS Telcom, Inc. \$38,494 Revenues 12/31/00	3526	2001	1999 2001
020659-TI	American Telesource International, Inc. \$0 Revenues 12/31/00	4024	2001	2000 2001
020661-TI	Federal TransTel, Inc. \$0 Revenues 12/31/00	4373	2001	2000 2001
020662-TI	Ursus Telecom Corp. \$0 Revenues 12/31/00	4374	2001	2001
020663-TI	Blue Shift Telecom, Ltd. \$0 Revenues 12/31/00	4421	2001	1998 2001
020676-TI	TELCAM, Telecommunications Company \$0 Revenues 12/31/00	5161	2001	2000 2001
020679-TI	United Services Telephone, LLC \$8,911 Revenues 12/31/00	5288	2001	2000 2001
020688-TI	TNS \$0 Revenues 12/31/00	5676	2001	2001

*Years penalty and/or interest was not paid

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1st Time Offenders - Nonpayment of RAFs - \$500 Penalty - Continued

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020691-TI	2 nd Century Communications, Inc. \$84,187 Revenues 12/31/00	5809	2001	2001
020696-TI	USC Telecom, Inc. \$53,398 Revenues 12/31/00	7128	2001	2000 2001
020698-TI	i-TeleCo.com, Inc. \$0 Revenues 12/31/00	7179	2001	2001
020699-TI	Connect!LD, Inc. \$0 Revenues 12/31/00	7263	2001	2001
020704-TI	BroadRiver Communication Corporation \$0 Revenues 12/31/00	7446	2001	2001
020705-TI	MultiPhone Latin America, Inc. \$0 Revenues 12/31/00	7547	2001	2000 2001
020716-TI	Cybertel, Communications Corp. \$1,493 Revenues 12/31/00	7554	2001	2000 2001
020717-TI	beMANY! \$0 Revenues 12/31/00	7505	2001	2000 2001
020718-TI	RCC Radio Communications Corporation \$0 Revenues 12/31/00	7567	2001	2001
020723-TI	Global Broadband, Inc. \$0 Revenues 12/31/00	7621	2001	2001
020728-TI	Backbone Communications Inc. No Previous Return Filed	7693	2001	2001
020729-TI	Eureka Telecom, LLC \$0 Revenues 12/31/00	7654	2001	2001

*Years penalty and/or interest was not paid

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1st Time Offenders - Nonpayment of RAFs - \$500 Penalty - Continued

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020730-TI	Evolution Networks South, Inc. No Previous Return Filed	7667	2001	2001
020734-TI	Summit Telco, L.L.C. No Previous Return Filed	7717	2001	2001
020736-TI	RapTel Communications, LLC No Previous Return Filed	7732	2001	2001
020750-TI	Quick Tel, Inc. No Previous Return Filed	7826	2001	2001
020751-TI	TotalCom America Corporation No Previous Return Filed	7855	2001	2001
020752-TI	IntelleCare.FL., Inc. No Previous Return Filed	7878	2001	2001
020754-TI	Miketronics, Inc. No Previous Return Filed	7873	2001	2001
020758-TI	Aventura Networks, Inc. No Previous Return Filed	7915	2001	2001

*Years penalty and/or interest was not paid

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2nd Time Offenders - Nonpayment of RAFs - \$1,000 Penalty

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020660-TI	Call-4-Less \$45,849 Revenues 12/31/00	4027	2001	2001
020671-TI	World Telecommunications Services, Inc. \$7,746 Revenues 12/31/00	4410	2001	2001
020672-TI	Starlink Communications, LLC \$23,239 Revenues 12/31/00	4412	2001	2000 2001
020686-TI	Axsys, Inc./TEL PTNS \$985 Revenues 12/31/00	5629	2001	2001
020690-TI	Long Distance America, Inc. \$0 Revenues 12/31/00	5759	2001	1999 2001
020693-TI	ACG Telecom Services Incorporated \$2,523 Revenues 12/31/00	7044	2001	2001
020697-TI	Ozark Telecom, Inc. \$0 Revenues 12/31/00	7178	2001	2001
020700-TI	United Technological Systems, Inc. \$0 Revenues 12/31/00	7515	2001	2001
020703-TI	FairPoint Communications Solutions Corp. \$313,106 Revenues 12/31/00	7428	2001	2001

*Years penalty and/or interest was not paid

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3rd Time Offender - Nonpayment of RAFs - Cancellation of Certificate

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020687-TI	iTELSA (USA), Inc. \$65,600 Revenues \$12/31/01	5672	2001	2001

*Years penalty and/or interest was not paid