

State of Florida



Public Service Commission

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COMMISSION
CLERK

DATE: DECEMBER 5, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Aji* *MD*
OFFICE OF THE GENERAL COUNSEL (TEITZMAN) *F* *DLC*

RE: DOCKET NO. 020702-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 7345 ISSUED TO EZTEL NETWORK SERVICE, LLC FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES, AND 25-24.480, F.A.C., RECORDS & REPORTS; RULES INCORPORATED.

DOCKET NO. 021124-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC CERTIFICATE NO. 7992 ISSUED TO CIRCLINET.COMMUNICATIONS, INC. FOR VIOLATION OF RULES 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES AND 25-24.480, F.A.C., RECORDS & REPORTS; RULES INCORPORATED.

AGENDA: 12/17/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020702.RCM

CASE BACKGROUND

This recommendation deals with the enforcement actions against interexchange carriers (IXCs) for nonpayment of the Regulatory Assessment Fees (RAFs) and not providing the Commission with its updated reporting requirements. Staff is recommending that the first time offenders be penalized \$1,000 (\$500 for each violation).

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The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, 364.337, and 364.183, Florida Statutes. The certificated providers are listed on Attachment A. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a total penalty of \$1,000 (\$500 for each rule violation) or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, with an effective date of December 31, 2002?

RECOMMENDATION: Yes. The Commission should assess a total penalty of \$1,000 or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, with an effective date of December 31, 2002, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000 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 companies listed on Attachment A do not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received in accordance with the Commission's Order, that company's respective 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 each company's respective certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, that company should be required to immediately cease and desist providing interexchange carrier services in Florida. (Isler; Teitzman)

STAFF ANALYSIS: Each of the telecommunications providers listed on Attachment A had not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges. Staff wrote each of

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the companies listed on Attachment A in an attempt to bring the companies into compliance with the RAF rule. No payment or response was received, therefore, dockets were established. The companies listed on Attachment A have not paid their 2001 Regulatory Assessment Fees, plus statutory penalty and interest charges.

In addition, the companies listed on Attachment A have had returned mail and have not updated the information within 10 days of the change of its address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission as required by Rule 25-24.480, Florida Administrative Code. Staff attempted to call the companies, but was unsuccessful. Therefore, it appears the companies listed on Attachment A have failed to comply with Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, and have not requested cancellation of their respective certificates in compliance with Rule 25-24.480, Florida Administrative Code. The penalty amount recommended in these dockets is consistent with amounts imposed for recent, similar violations. Pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay Regulatory Assessment Fees, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

Accordingly, staff recommends that the Commission assess a total penalty of \$1,000 or cancel each company's respective certificate as listed on Attachment A for apparent violation of Rules 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.480, Florida Administrative Code, and 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, with an effective date of December 31, 2002, if the penalty, Regulatory Assessment Fees, including statutory penalty and interest charges, and the information required by Rule 25-24.480, Florida Administrative Code, Records and Reports; Rules Incorporated, are not received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The total penalty of \$1,000

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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 companies listed on Attachment A do not protest the Commission's Order, or if the penalty and Regulatory Assessment Fees, including statutory penalty and interest charges, and required information are not received in accordance with the Commission's Order, that company's respective 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 each company's respective certificate, as listed on Attachment A, is cancelled in accordance with the Commission's Order from this recommendation, that company should be required to immediately cease and desist providing interexchange carrier services in Florida.

ISSUE 2: Should these dockets 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. These dockets should then be closed upon receipt of the penalty and fees and updated reporting requirements, 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. (Teitzman)

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, these dockets should be closed upon receipt of the penalty and fees and updated reporting requirements, 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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<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD ENDED</u>	<u>CERT. NO.</u>	<u>RAFs</u>	<u>Penalty and Interest*</u>
020702-TI	ezTel Network Service, LLC \$0 Revenues for Period Ended 12/31/00	7345	2001	2000 2001
021124-TI	Circlenet.Communications, Inc. No Previous Return Filed	7992	2001	2001

*Years penalty and/or interest was not paid

NOTE: There are no outstanding consumer complaints against the companies listed above.