

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

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RECEIVED FPSC

DATE: NOVEMBER 20, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *Dji*
OFFICE OF THE GENERAL COUNSEL (MCKAY) *VSIM/ML*

RE: CANCELLATION OF TARIFF AND REMOVAL FROM REGISTER BY
FLORIDA PUBLIC SERVICE COMMISSION OF IXC REGISTRATION FOR
VIOLATION OF SECTION 364.336, FLORIDA STATUTES.

AGENDA: 12/02/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030755.RCM

CASE BACKGROUND

The companies listed on Attachment A were mailed the 2002 Regulatory Assessment Fee (RAF) return notice and payment was due by January 30, 2003. On February 21, 2003, the Office of the General Counsel sent a delinquent notice via certified mail attempting collection of the 2002 RAF. The US Postal Service returned the certified receipts for all companies listed on Attachment A, which showed the delinquent notices were signed for and delivered.

The Commission received correspondence from each of the companies listed on Attachment A, which requested removal from the register and cancellation of their respective tariffs. Staff wrote each of the companies listed on Attachment A and explained that staff could not recommend a voluntary cancellation until each company complied with Section 364.02, Florida Statutes. As of

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November 14, 2003, none of the companies listed on Attachment A have fully complied with Section 364.02, Florida Statutes.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.336, 364.285, and 364.02, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

1st Time Offenders - Nonpayment of RAFs - Remove from the Register on the Commission's own motion

DOCKET NO. 030755-TI - COMMERCIAL COMMUNICATIONS SYSTEMS, INC.
DOCKET NO. 030786-TI - PROMISE-NET INTERNATIONAL, LTD., INC.
DOCKET NO. 030789-TI - NORBEL TELECOM, INC.
DOCKET NO. 030943-TI - NEW ZEALAND COMMUNICATIONS (USA) LIMITED, INC.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the companies listed on Attachment A voluntary removal from the register and cancellation of their respective tariffs?

RECOMMENDATION: The Commission should not grant the companies listed on Attachment A voluntary removal from the register and cancellation of their respective tariffs. Rather, the Commission should remove each company, as listed on Attachment A, from the register on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and its name removed from the register, as listed on Attachment A, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If any of the companies listed on Attachment A have their respective tariff cancelled and name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding RAF, including statutory late payment charges. **(Isler; McKay)**

STAFF ANALYSIS: 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 late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Although each of the companies listed on Attachment A requested removal from the register and cancellation of their respective tariffs, the companies have not fully complied with Section 364.02, Florida Statutes and all have a past due balance.

Accordingly, staff recommends that the Commission not grant the companies listed on Attachment A voluntary removal from the register and cancellation of their respective tariffs. The Commission should remove each company, as listed on Attachment A, from the register on its own motion with an effective date as listed on Attachment A. The collection of the past due fees should be referred to the Florida Department of Financial Services for further collection efforts. If a company's tariff is cancelled and

its name removed from the register, as listed on Attachment A, in accordance with the Commission's Order from this recommendation, the respective company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If any of the companies listed on Attachment A have their respective tariff cancelled and name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, that company should be required to first pay any outstanding RAF, including statutory late payment charges.

ISSUE 2: Should these dockets be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of 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 issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final.

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 issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final.

DOCKET NOS. 030755-TI & OTHERS
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ATTACHMENT A

<u>DOCKET NO.</u>	<u>PROVIDER LAST REPORTED REVENUES & PERIOD COVERED</u>	<u>REG. NO.</u>	<u>Effective Date of Cancellation</u>
030755-TI	Commercial Communications Systems, Inc. \$0 Revenues for Period Ended 12/31/01 Owes 2002 and 2003 RAFs and 2002 Late Payment Charges	TI020	07/11/03
030786-TI	Promise-Net International, Ltd., Inc. \$38,600 Revenues for Period Ended 12/31/01 Owes 2002 and 2003 RAFs and 2002 Late Payment Charges	TJ192	04/28/03
030789-TI	Norbel Telecom, Inc. \$0 Revenues for Period Ended 12/31/01 Owes 2002 and 2003 RAFs and 2002 Late Payment Charges	TJ449	04/01/03
030943-TI	Telecom New Zealand Communications (USA) Limited, Inc. \$0 Revenues for Period Ended 12/31/02 Owes 2003 RAFs and 2002 Late Payment Charges	TJ525	05/22/03