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COMMISSION
CLERK

DATE: JANUARY 22, 2004

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (ISLER) *MS*
OFFICE OF THE GENERAL COUNSEL (MCKAY) *VSM*

RE: DOCKET NO. 030806-TI - CANCELLATION OF TARIFF AND REMOVAL FROM REGISTER BY FLORIDA PUBLIC SERVICE COMMISSION OF IXC REGISTRATION NO. TJ634 ISSUED TO UNIVERSAL CARRIERS, INC. D/B/A UNIVERSAL COMMUNICATIONS, INC. FOR VIOLATION OF SECTION 364.336, FLORIDA STATUTES.

AGENDA: 02/03/04 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030806.RCM

CASE BACKGROUND

- **05/21/02** - This company obtained Florida Public Service Commission Intrastate Interexchange Telecommunications Company Registration No. TJ634.
- **12/12/02** - The Division of the Commission Clerk & Administrative Services mailed the 2002 Regulatory Assessment Fee (RAF) return notice. Payment was due by January 30, 2003.
- **02/21/03** - 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 receipt, which showed the delinquent notice was signed for and delivered on February 24, 2003.

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- **03/19/03** - The Division of the Commission Clerk & Administrative Services notified staff that this company had not paid the 2002 RAF.
- **04/28/03** - Staff wrote the company and explained that payment for the RAF needed to be paid by May 19, 2003, to avoid an enforcement docket from being established.
- **05/06/03** - Mr. Edward Maldonado, Attorney and Consultant to the company, called staff and advised the RAF would be paid.
- **08/12/03** - Payment was not received; therefore, this docket was established.
- **08/21/03** - Mr. Don Johnston, Consultant, called staff and advised this docket would be resolved but the company needed additional time.
- **09/08/03** - Mr. Johnston called staff and asked that the 2002 RAF return form be faxed to him. The form was faxed on September 9, 2003.
- **11/03/03** - The Commission received the company's minimum payment for the 2002 RAF. The company reported revenues in the amount of \$3,831.31 for the period ended December 31, 2002.
- **11/20/03** - Staff faxed the company's consultant a note and advised that the past due statutory late payment charges needed to be paid. In addition, staff advised the company needed to propose a settlement or request cancellation to resolve the docket. On November 24, 2003, staff was advised that the late payment charges had been received by the Commission on November 20, 2003, the same day as its fax to the company.
- **12/10/03** - Staff called Mr. Johnston about the status of this docket. Mr. Johnston asked staff to re fax the information faxed on November 20, 2003. The information was faxed the same date.
- **12/19/03** - Staff e-mailed Mr. Johnston and asked how the company wished to proceed.

- **01/12/04** - The Commission received a settlement proposal from the company's consultant.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.02, 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 accept the settlement offer proposed by Universal Carriers, Inc. d/b/a Universal Communications, Inc. to resolve the apparent violation of Section 364.336, Florida Statutes?

RECOMMENDATION: 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 Florida Department of Financial Services 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, the company's tariff should be cancelled and its name removed from the register administratively. In addition, the company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company should be required to first pay any outstanding RAF, including statutory late payment charges, and the contribution. **(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.

After this docket was opened, but prior to staff filing a recommendation, the Commission received the company's payment for the outstanding Regulatory Assessment Fee, including statutory late payment charges, and a letter from the company's consultant, which offered to pay a \$100 contribution and proposed to pay future RAFs on a timely basis.

Accordingly, staff believes the terms of the settlement agreement as summarized in this recommendation should be accepted. 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 Florida Department of Financial Services 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, the company's tariff should be cancelled and its name removed from the register administratively. In addition, the company should be required to immediately cease and desist providing intrastate interexchange services in Florida. If the company's tariff is cancelled and its name removed from the register, and subsequently decides to reapply for registration as an intrastate interexchange telecommunications company, the company should be required to first pay any outstanding RAF, including statutory late payment charges, and the contribution.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: 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 tariff and removal from the register. **(McKay)**

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 tariff and removal from the register.