

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of IXC
Registration holders for apparent third-time
violation of Section 364.336, F.S.

DOCKET NO. 060471-TI
ORDER NO. PSC-06-0620-PAA-TI
ISSUED: July 20, 2006

NOTICE OF PROPOSED AGENCY ACTION ORDER IMPOSING PENALTIES AND
COLLECTION COSTS, AND REQUIRING PAYMENT OF DELINQUENT REGULATORY
ASSESSMENT FEES, OR CANCELLING INTRASTATE INTEREXCHANGE
TELECOMMUNICATIONS TARIFF AND REGISTRATION FOR VIOLATION OF
SECTION 364.336, FLORIDA STATUTES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Pursuant to Rule 25-4.0161(10), Florida Administrative Code, telecommunications companies that fail to pay the Regulatory Assessment Fee, including statutory late payment charges, within 15 days after receiving a delinquent notice, shall be automatically penalized \$500 for a first offense, \$1,000 for a second offense, and \$2,000 for a third offense. The penalty amounts include collection costs. If an entity fails to pay the Regulatory Assessment Fee in full, including statutory late payment charges, along with the penalty amount, that entity's tariff and registration shall be cancelled.

Pursuant to Section 364.336, Florida Statutes, registration holders must pay a minimum annual Regulatory Assessment Fee of \$50 if the registration was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the Regulatory Assessment Fee return forms, for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due. All entities that apply for a registration receive a copy of our rules governing intrastate interexchange service (IXC).

The Division of the Commission Clerk and Administrative Services (CCA) advised our staff that Public Telephone Network, Inc., Company Code TJ153, failed to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. In addition, Public Telephone Network, Inc. has had two prior dockets for the same rule violation in which the company proposed a settlement to resolve its dockets.

Accordingly, we hereby find it appropriate to cancel Public Telephone Network, Inc.'s IXC registration for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Public Telephone Network, Inc. pays a penalty and

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cost of collection, together totaling \$2,000, and remits any past due Regulatory Assessment Fees, along with accrued statutory late payment charges, to the Florida Public Service Commission.

If this Order is not protested, Public Telephone Network, Inc.'s IXC tariff and registration shall be cancelled. If Public Telephone Network, Inc. pays the penalty and cost of collection, together totaling \$2,000, and remits any past due Regulatory Assessment Fees, along with accrued statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then Public Telephone Network, Inc.'s IXC tariff and registration will remain active. If Public Telephone Network, Inc. fails to protest the Order or pay the penalty and cost of collection, together totaling \$2,000, and fails to remit any past due Regulatory Assessment Fees, along with accrued statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then Public Telephone Network, Inc.'s IXC tariff and registration should be cancelled administratively, and the collection of the past due Regulatory Assessment Fees should be referred to the Florida Department of Financial Services for further collection efforts. If Public Telephone Network, Inc.'s IXC tariff and registration are cancelled in accordance with this Commission's Order, that company should be required to immediately cease and desist providing intrastate interexchange service in Florida. This docket should be closed administratively either upon receipt of the payment of the penalty and cost of collection, together totaling \$2,000, and any past due Regulatory Assessment Fees, along with accrued statutory late payment charges, or upon cancellation of Public Telephone Network, Inc.'s IXC tariff and registration. If Public Telephone Network, Inc.'s IXC tariff and registration are cancelled in accordance with this Order and it subsequently decides to reapply for a registration as an intrastate interexchange company, Public Telephone Network, Inc. shall be required to first pay the penalty and cost of collection, together totaling \$2,000 and any outstanding fees, including accrued statutory late payment charges. We are vested with jurisdiction over these matters pursuant to Sections 350.113, 364.336, 364.339, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Public Telephone Network, Inc. shall pay a penalty and cost of collection, together totaling \$2,000, and any past due Regulatory Assessment Fees, including statutory late payment charges, to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, by the end of the protest period. The cost of collection will be subtracted from any monies collected as payment (full or partial) of the penalty and cost of collection, and will be deposited, along with the past due Regulatory Assessment Fees, in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. The statutory late payment charges and any portion of the penalty exceeding the cost of collection will be remitted to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that should Public Telephone Network, Inc. fail to comply with this Order, that entity's tariff and registration shall be cancelled. It is further

ORDERED that the cancellation of the tariff and registration in no way diminishes Public Telephone Network, Inc.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory late payment charges. If Public Telephone Network, Inc. has its tariff and registration cancelled, and subsequently decides to reapply for registration as an intrastate interexchange service company, that company shall be required to first pay any outstanding penalties and cost of collection and fees, including accrued statutory late payment charges. Any unpaid Regulatory Assessment Fees, and accrued statutory late payment charges, shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

ORDERED that if Public Telephone Network, Inc.'s tariff and registration are cancelled in accordance with this Order, that entity shall immediately cease and desist providing intrastate interexchange service in Florida. It is further


ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed upon receipt of the imposed penalty and cost of collection, together totaling \$2,000, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of Public Telephone Network, Inc.'s IXC tariff and registration.

By ORDER of the Florida Public Service Commission this 20th day of July, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By:



Kay Flynn, Chief
Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 10, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.