

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of IXC
Registration No. TJ501, issued to Telmex
USA, L.L.C., for apparent third-time violation
of Section 364.336, Florida Statutes, and Rule
25-4.0161, F.A.C., Regulatory Assessment
Fees; Telecommunications Companies.

DOCKET NO. 100229-TI
ORDER NO. PSC-10-0351-PAA-TI
ISSUED: June 4, 2010

NOTICE OF PROPOSED AGENCY ACTION ORDER IMPOSING PENALTIES AND
COLLECTION COSTS, AND REQUIRING PAYMENT OF DELINQUENT REGULATORY
ASSESSMENT FEES, OR CANCELING INTRASTATE INTEREXCHANGE
TELECOMMUNICATIONS TARIFF AND REGISTRATION FOR VIOLATION OF
SECTION 364.336, FLORIDA STATUTES, AND RULE 25-4.0161, FLORIDA
ADMINISTRATIVE CODE

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) and (11), 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 any statutory late payment charges, along with the penalty amount, that entity's Intrastate Interexchange Telecommunications Company ("IXC") tariff and registration shall be cancelled.

Pursuant to Section 364.336, Florida Statutes, IXCs must pay a minimum annual Regulatory Assessment Fee if the entity was licensed or 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.

The Division of Administrative Services advised that Telmex USA, L.L.C. failed to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. In addition, Telmex USA, L.L.C. has had two prior dockets for the same rule violation in

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which the company paid the penalty imposed to resolve its respective dockets. Telmex USA, L.L.C. has not paid the 2009 Regulatory Assessment Fee.

Accordingly, we hereby find it appropriate to cancel Telmex USA, L.L.C.'s IXC tariff and registration for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless Telmex USA, L.L.C. pays a penalty and cost of collection, together totaling \$2,000, and remits the past due Regulatory Assessment Fees, along with any accrued statutory late payment charges, to the Florida Public Service Commission.

If this Order is not protested, Telmex USA, L.L.C.'s IXC tariff and registration shall be cancelled. If Telmex USA, L.L.C. pays the penalty and cost of collection, together totaling \$2,000, and remits any past due Regulatory Assessment Fees, along with any accrued statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then the entity's IXC tariff and registration will remain active. If Telmex USA, L.L.C. 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 any accrued statutory late payment charges, prior to the expiration of the Proposed Agency Action Order, then Telmex USA, L.L.C.'s IXC tariff and registration shall be cancelled administratively, and the collection of any past due Regulatory Assessment Fees shall be referred to the Florida Department of Financial Services for further collection efforts. If Telmex USA, L.L.C.'s IXC tariff and registration are cancelled in accordance with this Commission's Order, the company shall immediately cease and desist providing intrastate interexchange service in Florida. This docket shall 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 any accrued statutory late payment charges, or upon cancellation of Telmex USA, L.L.C.'s IXC tariff and registration. If Telmex USA, L.L.C.'s IXC tariff and registration are cancelled in accordance with this Order and it subsequently decides to reapply as a telecommunications company, Telmex USA, L.L.C. 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, 364.02, 364.285, and 364.336, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Telmex USA, L.L.C. shall pay a penalty and cost of collection, together totaling \$2,000, and any past due Regulatory Assessment Fees, including any 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 payments (full or partial) of the penalty and cost of collection, and will be deposited, along with any past due Regulatory Assessment Fees, in the Florida Public Service Commission 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 Telmex USA, L.L.C. fail to comply with this Order, that Telmex USA, L.L.C.'s respective tariff and registration shall be cancelled. It is further

ORDERED that the cancellation of the tariff and registration in no way diminishes Telmex USA, L.L.C.'s obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory late payment charges. If Telmex USA, L.L.C. has its respective tariff and registration cancelled, and subsequently decides to reapply as a telecommunications company, Telmex USA, L.L.C. shall be required to first pay any outstanding penalties and cost of collection and fees, including any 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 Telmex USA, L.L.C.'s tariff and registration are cancelled in accordance with this Order, that Telmex USA, L.L.C. shall immediately cease and desist providing intrastate interexchange telecommunications 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 Office of Commission Clerk, 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 any Regulatory Assessment Fees, including any statutory late payment charges, from Telmex USA, L.L.C. or upon cancellation of Telmex USA, L.L.C.'s Intrastate Interexchange Telecommunications Company tariff and registration.

By ORDER of the Florida Public Service Commission this 4th day of June, 2010.



ANN COLE
Commission Clerk

(SEAL)

LDH

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 25, 2010.

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.