

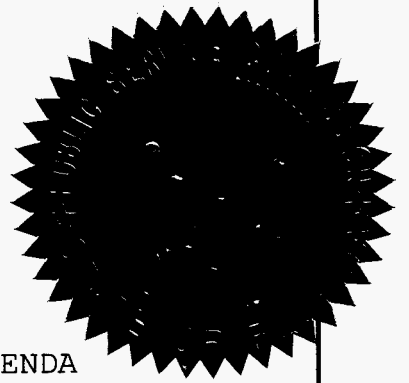
BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 100055-TI

ACKNOWLEDGMENT OF REGISTRATION  
AS INTRASTATE INTEREXCHANGE  
TELECOMMUNICATIONS COMPANY BY  
GAUCHO SAT. U.S.A INC.



PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 5

COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER NATHAN A. SKOP  
COMMISSIONER RONALD A. BRISÉ  
COMMISSIONER EDUARDO E. BALBIS

DATE: Tuesday, November 30, 2010

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR  
Official FPSC Reporter  
(850) 413-6734

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## P R O C E E D I N G S

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3           **CHAIRMAN GRAHAM:** Okay. We are moving on to  
4 Item Number 5.

5           **MS. EARNHART:** Good morning, Commissioners.  
6 Toni Earnhart with Commission Staff.

7           Item 5 is Staff's recommendation that the  
8 Commission on its own motion cancel Gaucho Sat.  
9 U.S.A., Inc.'s registration to operate as an  
10 interexchange telecommunications company in Florida.

11           The reason Staff recommends cancellation  
12 is that Gaucho was previously registered in 2008,  
13 and its registration was canceled for failure to pay  
14 regulatory assessment fees. For its new  
15 registration to remain active, Gaucho must pay all  
16 outstanding regulatory fees, plus all penalties and  
17 interest. Gaucho was notified by Staff of this  
18 requirement, but has chosen not to pay the  
19 outstanding fees. There is no one here representing  
20 Gaucho.

21           Staff is prepared to answer any questions  
22 that you may have.

23           **CHAIRMAN GRAHAM:** Commissioner Skop.

24           **COMMISSIONER SKOP:** Thank you. Just to Staff,  
25 a couple of things on this. I think, first and

1 foremost, Staff is taking the right step here with the  
2 Staff recommendation, but I do have some questions in  
3 terms of best practices.

4 According to the case background, at the  
5 beginning of this year, on January 29th, Gaucho  
6 filed an IXC registration and a price schedule with  
7 the PSC. And according to the case background, the  
8 registration is effective on the date that it's  
9 received by the Office of Commission Clerk.

10 I think that the question that arose in  
11 reading the Staff recommendation was, you know, is  
12 there anything prior to just making it effective on  
13 that date that, that the Commission should consider  
14 doing in terms of due diligence in checking some of  
15 the things that Staff typically checks after the  
16 fact? Whereas, in this case had we, you know,  
17 looked, you know, not so long ago, we might have  
18 found some things that would have given pause in  
19 terms of granting the registration or making it  
20 effective on that date.

21 **MR. KENNEDY:** Commissioner, the IXC  
22 registration, our practice has been and a legal  
23 determination was made several years ago due to a law  
24 change that the IXC registration is effective the day  
25 that it's received by the Commission Clerk.

1           In this -- we knew when we first looked at  
2 this the Company had not paid those outstanding  
3 RAFs. That's the first thing we check is prior  
4 dockets and prior practices by the Company.

5           We take -- we took longer in this instance  
6 because the Company was not operating. Their tariff  
7 filing said that they, it was just for in case in  
8 the future they wanted to do switch toll long  
9 distance services.

10           So our objective is to get money out of  
11 them. I mean, we didn't harass them, but we  
12 certainly tried very hard to get paid because we've  
13 never got a penny from this Company because there's  
14 no registration fee. All we get is the RAF payment.  
15 So we worked hard to try to get it.

16           He had an attorney; we went through the  
17 attorney. But we knew that, within a day or two  
18 after it was filed, that he had not paid the RAF in  
19 prior years.

20           **COMMISSIONER SKOP:** Okay. And I know that  
21 through the Staff recommendation there's a lengthy  
22 process that Staff made numerous attempts to try and  
23 work in good faith in contacting the Company to no  
24 avail, to contacting their, I guess, consultant,  
25 regulatory consultant to no avail, or at least somewhat.

1           But at the end of the day it seemed to  
2 have taken a lot of time for us, almost a year to  
3 reach this point, notwithstanding the fact of the  
4 prior bad actions under the prior registration that  
5 they're, you know, granted effective immediately  
6 with the current registration. It seemed to me that  
7 that took a long time to get to today. And that's  
8 why I'm just asking whether a cursory review in  
9 terms of some due diligence and maybe taking a look  
10 at best practices.

11           I mean, because at the end of the day,  
12 doing business in the State of Florida is a  
13 privilege, not a right. And I think that, you know,  
14 in this instance perhaps a lot of Staff effort and  
15 time and taxpayer expense could have been saved had,  
16 you know, on the front end we may have caught this a  
17 little bit sooner or not afforded so much courtesy  
18 to someone that has not operated in accordance with  
19 our rules in the past.

20           **MR. KENNEDY:** I agree fully. And I believe  
21 that we may have a look at this for future reference and  
22 make these things a lot quicker, simpler, with less time  
23 and money spent on them.

24           **COMMISSIONER SKOP:** All right. Thank you so  
25 much. And I do commend Staff for taking the time to, to

1 write out a lengthy recommendation and dot the I's and  
2 cross the T's.

3 So with that, I'd move the Staff  
4 recommendation on Issues 1 and 2, if there are no  
5 further questions.

6 **CHAIRMAN GRAHAM:** I've got a question to  
7 Staff.

8 Specifically to this case, can we put  
9 anything in this order that, so they won't just come  
10 back a week from today or a month from today and  
11 file the application again for us to go through all  
12 this all over again?

13 **MR. TEITZMAN:** Adam Teitzman on behalf of  
14 Commission Staff.

15 Yes, Mr. Chairman. I have some language  
16 that I'd like to propose be placed in the order.  
17 Basically it would be "The Commission shall not  
18 accept any further IXC registration forms from  
19 Gaucho until it remits all past due RAFs, statutory  
20 late payment charges and penalties." And this would  
21 ensure that a new docket was not open and we did not  
22 go through this same process again. That, that was  
23 not part of the language at the end. I was just  
24 explaining.

25 **CHAIRMAN GRAHAM:** I think that's a good idea

1 because I just don't want for these guys -- it looks  
2 like it's something that they just do normally as a way  
3 of circumventing the process. And I know if I can get a  
4 motion from one of our board members to move that.

5 **COMMISSIONER BALBIS:** I have a question,  
6 Mr. Chair.

7 **CHAIRMAN GRAHAM:** Yes.

8 **COMMISSIONER BALBIS:** And maybe this question  
9 is for Staff. As far as, you know, particular to the  
10 Gaucho issue, I mean, is there something that we can do  
11 more formal that applies to all applicants for  
12 registration that a registration will not be considered  
13 unless any past due amounts, et cetera, are cleared up?  
14 Because I don't want to have to go through this -- maybe  
15 it's not a common occurrence, I don't know, but is there  
16 something we can make more, more general?

17 **CHAIRMAN GRAHAM:** I think that that's  
18 something we have to look at through Internal Affairs  
19 later on.

20 **COMMISSIONER BALBIS:** Okay.

21 **CHAIRMAN GRAHAM:** I think just specifically  
22 for this one we may be able to stop them from coming  
23 right back. But, you know, sometime in the future we  
24 probably need to bring this up to Internal Affairs and  
25 tweak our, our standard operating procedure on this

1 process.

2 **MR. KENNEDY:** Yes. We've already started  
3 looking at that, and that's what we will do, bring you  
4 something.

5 **COMMISSIONER EDGAR:** Mr. Chair, could I ask  
6 Mr. Teitzman to read that language again for me and  
7 maybe just a touch slower.

8 **MR. TEITZMAN:** Absolutely. Sorry.

9 "The Commission shall not accept any  
10 further IXC registration forms from Gaucho until it  
11 remits all past due regulatory assessment fees,  
12 statutory late payment charges and penalties."

13 **COMMISSIONER EDGAR:** Thank you. And I'm  
14 comfortable with that language, I appreciate the  
15 opportunity to hear it a second time, and I would ask  
16 that it be included in the order that issues from this  
17 item.

18 **CHAIRMAN GRAHAM:** That sounded like a motion.

19 **COMMISSIONER EDGAR:** That is in the form of a  
20 motion.

21 **CHAIRMAN GRAHAM:** Commissioner Brisé, did you  
22 have a comment? Okay. Anyone else? Do I get a second  
23 on that motion?

24 **COMMISSIONER SKOP:** Second.

25 **CHAIRMAN GRAHAM:** It's been moved and



1 seconded. Any further discussion? Seeing none, all in  
2 favor, say aye.

3 (Vote taken.)

4 Those opposed? By your action, you've -- I  
5 guess we amended it, so you approved the amendment to the  
6 Item Number 5. Now I need a motion to move Item Number 5  
7 as amended.

8 **COMMISSIONER EDGAR:** So moved.

9 **COMMISSIONER SKOP:** Second.

10 **CHAIRMAN GRAHAM:** It's been moved and  
11 seconded. Any further discussion on the Item Number 5?  
12 Seeing none, all in favor, say aye.

13 (Vote taken.)

14 Those opposed? By your action, you've approved  
15 Item Number 5 as amended. Thank you.

16 (Agenda item concluded.)

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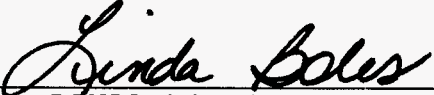
CERTIFICATE OF REPORTER

I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 3<sup>rd</sup> day of December, 2010.

  
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