

100055-TI

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State of Florida
Public Service Commission
2540 Shumard Oak Boulevard
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COMMISSION CLERK

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12/27/10

Gaicho Sat. U.S.A Inc
Marco Aparicio
1250 South Miami Avenue, #1809
Miami FL 33130

100055-TI
Notice of Proposed
Agency Action Order
cancelling an IXC
Registration.

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FPSC-COMMISSION OFFICE

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Gaicho Sat. U.S.A Inc
 Marco Aparicio
 1250 South Miami Avenue, #1809
 Miami FL 33130

2. Article Number

(Transfer from service label)

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PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

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C.O.D.

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100055-T1 PSC-10-0742-PAA-T1

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Office of Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

100055-T1

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DOCUMENT NUMBER: PAA

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FPSC-COMMISSIONER CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Acknowledgment of registration as
intrastate interexchange telecommunications
company by Gaucho Sat. U.S.A Inc.

DOCKET NO. 100055-TI
ORDER NO. PSC-10-0742-PAA-TI
ISSUED: December 22, 2010

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
RONALD A. BRISÉ
EDUARDO E. BALBIS

NOTICE OF PROPOSED AGENCY ACTION
ORDER CANCELLING AN IXC REGISTRATION

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.

I. Case Background

On January 29, 2010, Gaucho Sat. U.S.A Inc. (Gaucho) filed an intrastate interexchange telecommunications company (IXC) Registration Form and a price schedule with the Florida Public Service Commission (Commission). Upon receipt of Gaucho's IXC registration, this Commission assigned the company Registration No. TK284. The registration is effective on the date that it is received by the Office of Commission Clerk.

Gaucho's price schedule reflected that its primary business consists of international and domestic toll services using Voice-Over-Internet Protocol (VoIP). Gaucho's price schedule did not reflect any rates for switched toll services. Gaucho was not offering any telecommunications services regulated by this Commission. Gaucho registered as an IXC to position itself for entry into the switched toll services market at some future date.

Even though Gaucho's IXC registration was active upon submission to the Office of Commission Clerk, our staff reviewed the IXC Registration Form and price schedule for accuracy and completeness. If required, our staff will contact a company to obtain amendments to these documents. Our staff will also check to see if a company has been previously registered

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or certificated as a telecommunications company in Florida. If any outstanding regulatory issues are identified, our staff will work with a company to resolve the issues. Our staff will also verify that a company is actively registered with the Secretary of State to operate as a business in Florida.

In this instance, Gaucho was previously registered as an IXC (Registration No. TK225) in Florida. On May 27, 2009, this Commission issued Order No. PSC-09-0364-PAA-TI¹ imposing a \$500 penalty and cancelling Gaucho's IXC registration for the failure to pay the 2008 regulatory assessment fee. The company failed to protest the Order or pay the penalty and regulatory fee. We cancelled Gaucho's IXC registration effective June 22, 2009. The company now owes the Commission 2008 and 2009 regulatory assessment fees, statutory late payment charges, and the penalty imposed by Order No. PSC-09-0364-PAA-TI.

In March 2010, we made numerous attempts to contact the company via telephone to discuss the outstanding compliance issues. The company failed to return our calls. On April 29, we e-mailed Gaucho's regulatory consultant asking him to assist in obtaining a response from Gaucho regarding the outstanding regulatory issues. The consultant was not able to obtain a response.

On May 28, 2010, our staff mailed a certified letter advising Gaucho that failure to resolve the regulatory issues identified in Docket No. 090305-TI could result in the denial of the current IXC registration. Our staff attempted to fax a copy of the letter to the facsimile number (305-402-6780) that Gaucho provided on the IXC Registration Form. Either the number was out-of-service or had been disconnected. We also e-mailed a copy of the letter to the company's and regulatory consultant's e-mail addresses listed on the registration form. On June 22, 2010, the United States Postal Service returned the certified letter to us marked "Unclaimed." Neither Gaucho nor the consultant responded to staff.

On August 2, 2010, our staff called Gaucho using the telephone numbers provided on the IXC Registration Form. A recorded message indicated that the numbers were no longer in service. Subsequently, our staff spoke with Gaucho's regulatory consultant. The consultant claimed that Gaucho was still his client and represented that Gaucho wanted the IXC registration. The consultant asked staff to provide him the exact amount of monies Gaucho owed. On September 9, 2010, we e-mailed the consultant the exact amounts Gaucho needed to pay to resolve the issues in Docket No. 090305-TI. To resolve the issues, Gaucho is required to pay \$2,460. To date, Gaucho has not responded.

II. Analysis

As required by Rule 25-4.0161(13), Florida Administrative Code (F.A.C.), Gaucho must pay all outstanding regulatory assessment fees, statutory late payment charges, and penalties on

¹ Docket No. 090305-TI, In Re: Compliance investigation of IXC Registration No. TK225, issued to Gaucho Sat. U.S.A. Inc. for apparent first-time violation of Section 364.336, F.S., and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees: Telecommunications Companies.

its prior IXC registration (TK225) before the Commission should consider acknowledging a new IXC registration (TK284).

The Commission has jurisdiction over these matters pursuant to Sections 364.02, 364.04, 364.285, and 364.336, Florida Statutes (F.S.).

III. Conclusion

Because Gaucho has failed to pay all outstanding regulatory assessment fees, statutory late payment charges, and penalties on its prior IXC registration, we hereby cancel Gaucho's new IXC Registration No. TK284, cancel its price schedule, and remove Gaucho's name from the IXC register. Gaucho shall immediately cease and desist providing intrastate interexchange telecommunications services in Florida. Furthermore, this Commission shall not accept any further IXC registration forms from Gaucho until it remits all outstanding regulatory assessment fees, statutory late payment charges, and penalties.

This Order shall become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), F.S., any issues not in dispute should be deemed stipulated. If the company fails to timely file a protest and to request a Section 120.57, F.S., hearing, the facts should be deemed admitted and the right to a hearing waived. This docket shall be closed upon issuance of the Consummating Order.

Based on the forgoing, it is

ORDERED by the Florida Public Service Commission that we hereby cancel Gaucho Sat. U.S.A Inc.'s new IXC Registration No. TK284, cancel its price schedule, and remove Gaucho Sat. U.S.A Inc.'s name from the IXC register. It is further

ORDERED that Gaucho Sat. U.S.A Inc. shall immediately cease and desist providing intrastate interexchange telecommunications services in Florida and pay all outstanding regulatory assessment fees, statutory late payment charges, and penalties on its prior IXC registration (TK225). It is further

ORDERED that the Commission shall not accept any further IXC registration forms from Gaucho Sat. U.S.A Inc. until it remits all outstanding regulatory assessment fees, statutory late payment charges, and penalties. It is further


ORDERED that the provisions of this Order, issued as a 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.

By ORDER of the Florida Public Service Commission this 22nd day of December, 2010.

ANN COLE
Commission Clerk

By: 
Dorothy E. Manasco
Chief Deputy Commission Clerk

(SEAL)

VSM

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 January 12, 2011.

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

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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.