

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 20, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Isler)
Office of the General Counsel (Scott)

RE: Compliance investigation for apparent violation of Rule 25-4.0161, F.A.C.,
Regulatory Assessment Fees; Telecommunications Companies.

Docket No. 050610-TX – Electronic Technical Services (E.T.S.)
Docket No. 050614-TX – Premiere Network Services, Inc.
Docket No. 050615-TX – Telefyne Incorporated
Docket No. 050619-TX – Global Dialtone, Inc. d/b/a Atlantic Phone
Docket No. 050620-TX – CariLink International, Inc.
Docket No. 050621-TX – VGM International, Inc.
Docket No. 050622-TX – Florida Phone Service, Inc.
Docket No. 050623-TX – THC Merger Corp. d/b/a THC Internet Solutions
Docket No. 050624-TX – 1 Com, Inc. d/b/a 1 Com South, Inc.
Docket No. 050625-TX – TELECUBA, INC.
Docket No. 050626-TX – Vox2 Voice, L.C.
Docket No. 050627-TX – Metro Teleconnect Companies, Inc.
Docket No. 050628-TX – Smart Network Solutions Communications Corp
Docket No. 050629-TX – Best Value Telecom, Inc.
Docket No. 050633-TX – Local Telecom Systems, Inc.
Docket No. 050634-TX – BW Consulting, L.L.C.
Docket No. 050635-TX – Telepacket, Inc
Docket No. 050636-TX – Skyway Communications Holding Corp.
Docket No. 050637-TX – Ringsouth Telecom, Corp
Docket No. 050638-TX – US Telecom Group, Inc. d/b/a US Telecom
Docket No. 050639-TX – IQC, LLC
Docket No. 050640-TX – Access One Communications, Inc.
Docket No. 050696-TX – Coastal Telephone Connections, Inc. d/b/a Coastal
Connections

AGENDA: 11/01/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\050610.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission impose a penalty and a cost of collection, together totaling \$500, or cancel the Competitive Local Exchange Carrier (CLEC) certificate for each company identified in Attachment A, with an effective date of December 31, 2005, for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code?

Recommendation: Yes, the companies listed in Attachment A should be penalized \$500 or have their certificates cancelled for nonpayment of the 2004 Regulatory Assessment Fee. (Isler; Scott)

Staff Analysis: See attached proposed Order. In Docket No. 050378-TP, Rule 25-4.0161, Florida Administrative Code, was amended effective October 6, 2005, to automatically impose a penalty for late payment of the Regulatory Assessment Fee. The amended rule does not apply to the 2004 Regulatory Assessment Fee but will apply to future Regulatory Assessment Fees.

Issue 2: Should this docket be closed?

Recommendation: Staff recommends that the Order issued from this recommendation will 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, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), Florida Statutes, any issues not in dispute should be deemed stipulated. If any company fails to timely file a protest and to request a Section 120.57, Florida Statutes, hearing, the facts should be deemed admitted and the right to a hearing waived. If any company fails to pay the penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, within fourteen (14) calendar days after the issuance of the Consummating Order, the company's certificate should be cancelled administratively and the collection of the past due Regulatory Assessment Fees, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts. If any company's certificate is cancelled in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing competitive local exchange services in Florida. These dockets should be closed administratively either upon receipt of the payment of the penalty and cost of collection, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the company's certificate. (Scott)

Staff Analysis: Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Electronic Technical Services (E.T.S.), CLEC Certificate No. 5472, for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050610-TX
In re: Compliance investigation of Premiere Network Services, Inc., CLEC Certificate No. 7171, for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050614-TX
In re: Compliance investigation of Telefyne Incorporated, CLEC Certificate No. 7245, for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050615-TX
In re: Compliance investigation of Global Dialtone, Inc. d/b/a Atlantic Phone, CLEC Certificate No. 7866, for apparent violation of Rule 25-4.0161, FAC, Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050619-TX
In re: Compliance investigation of CariLink International, Inc., CLEC Certificate No. 7909, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050620-TX
In re: Compliance investigation of VGM International, Inc., CLEC Certificate No. 7910, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050621-TX
In re: Compliance investigation of Florida Phone Service, Inc., CLEC Certificate No. 7936, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050622-TX
In re: Compliance investigation of THC Merger Corp. d/b/a THC Internet Solutions, CLEC Certificate No. 8173, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050623-TX

In re: Compliance investigation of 1 Com, Inc. d/b/a 1 Com South, Inc., CLEC Certificate No. 8190, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050624-TX
In re: Compliance investigation of TELECUBA, INC., CLEC Certificate No. 8260, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050625-TX
In re: Compliance investigation of Vox2 Voice, L.C., CLEC Certificate No. 8271, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050626-TX
In re: Compliance investigation of Metro Teleconnect Companies, Inc., CLEC Certificate No. 8281, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050627-TX
In re: Compliance investigation of Smart Network Solutions Communications Corp, CLEC Certificate No. 8428, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050628-TX
In re: Compliance investigation of Best Value Telecom, Inc., CLEC Certificate No. 8443, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050629-TX
In re: Compliance investigation of Local Telecom Systems, Inc., CLEC Certificate No. 8448, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050633-TX
In re: Compliance investigation of BW Consulting, L.L.C., CLEC Certificate No. 8458, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050634-TX

In re: Compliance investigation of Telepacket, Inc, CLEC Certificate No. 8466, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050635-TX
In re: Compliance investigation of Skyway Communications Holding Corp., CLEC Certificate No. 8494, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050636-TX
In re: Compliance investigation of Ringsouth Telecom, Corp, CLEC Certificate No. 8484, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050637-TX
In re: Compliance investigation of US Telecom Group, Inc. d/b/a US Telecom, CLEC Certificate No. 8523, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050638-TX
In re: Compliance investigation of IQC, LLC, CLEC Certificate No. 8528, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050639-TX
In re: Compliance investigation of Access One Communications, Inc., CLEC Certificate No. 8530, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050640-TX
In re: Compliance investigation of Coastal Telephone Connections, Inc. d/b/a Coastal Connections, CLEC Certificate No. 8465, for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.	DOCKET NO. 050696-TX ORDER NO. ISSUED:

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR

NOTICE OF PROPOSED AGENCY ACTION ORDER IMPOSING PENALTIES AND
COLLECTION COSTS, AND REQUIRING PAYMENT OF DELINQUENT REGULATORY
ASSESSMENT FEES OR CANCELLING CLEC CERTIFICATES FOR VIOLATION OF
RULE 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS
COMPANIES

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.

The Division of the Commission Clerk & Administrative Services (CCA) advised our staff that the entities had not paid the Regulatory Assessment Fee (RAF) in full required by Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, for the years specified below. Also, accrued statutory late payment charges required by Section 350.113(4), Florida Statutes, for the year(s) specified below had not been paid. The entities listed below were scheduled to remit their respective 2004 RAFs by January 31, 2005. In addition to RAF payment notices sent by CCA, on July 29, 2005, our staff wrote the entities specified below and advised that payment of the 2004 RAF should be paid by August 19, 2005, to avoid dockets from being established. As of October 6, 2005, the entities listed below have not paid the past due RAF, including statutory late payment charges, requested cancellation of their respective certificates as required by Rule 25-24.820, Florida Administrative Code, or proposed a settlement.

Pursuant to Section 364.285, Florida Statutes, this Commission may impose a penalty or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.820, Florida Administrative Code, establishes the requirements for cancellation of a certificate. The rule provides for this Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee of \$50 if the certificate 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 certification receive a copy of our rules governing Competitive Local Exchange Telecommunications service.

<u>ENTITY'S NAME</u>	<u>CERT. NO.</u>	<u>UNPAID RAFS</u>	<u>UNPAID LATE PAYMENT CHARGES</u>
Electronic Technical Services (E.T.S.)	5472	1998 2004	1998 1999 2001 2002 2004
Premiere Network Services, Inc.	7171	2004	2003 2004
Telefyne Incorporated	7245	2004	2004
Global Dialtone, Inc. d/b/a Atlantic Phone	7866	2004	2001 2002 2003 2004
CariLink International, Inc.	7909	2004	2004
VGM International, Inc.	7910	2004	2002 2004
Florida Phone Service, Inc.	7936	2004	2004
THC Merger Corp. d/b/a THC Internet Solutions	8173	2004	2003 2004
1 Com, Inc. d/b/a 1 Com South, Inc.	8190	2004	2002 2003 2004
TELECUBA, INC.	8260	2004	2004
Vox2 Voice, L.C.	8271	2004	2003 2004
Metro Teleconnect Companies, Inc.	8281	2004	2003 2004
Smart Network Solutions Communications Corp	8428	2004	2004
Best Value Telecom, Inc.	8443	2004	2004

<u>ENTITY'S NAME</u>	<u>CERT. NO.</u>	<u>UNPAID RAFS</u>	<u>UNPAID LATE PAYMENT CHARGES</u>
Local Telecom Systems, Inc.	8448	2004	2004
BW Consulting, L.L.C.	8458	2004	2004
Telepacket, Inc	8466	2004	2004
Skyway Communications Holding Corp.	8494	2004	2004
Ringsouth Telecom, Corp	8484	2004	2004
US Telecom Group, Inc. d/b/a US Telecom	8523	2004	2004
IQC, LLC	8528	2004	2004
Access One Communications, Inc.	8530	2004	2004
Coastal Telephone Connections, Inc. d/b/a Coastal Connections	8465	2004	2004

Accordingly, we hereby find it appropriate to cancel each entity's certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless each entity pays a penalty and cost of collection, together totaling \$500, and remits all past due RAFs, along with accrued statutory late payment charges, to the Florida Public Service Commission. Each entity must comply with these requirements within 14 days after the issuance of the Consummating Order, as explained in the Notice of Further Proceedings attached to this Order. The payment should be identified with the docket number and the company's name. For any payment (full or partial) of the penalty and cost of collection received, the cost of collection will be subtracted and will be deposited in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. Any monetary amount 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.

When the appropriate fees, statutory late payment charges, penalties, and collection costs are received, each docket shall be closed. Should any of the entities fail to comply with this Order within 14 days after the issuance of the Consummating Order, the entity shall have its certificate cancelled, effective December 31, 2005. The collection of the past due RAFs, including statutory late payment charges, should be referred to the Florida Department of Financial Services for further collection efforts, and the docket shall be closed. The cancellation of the certificate in no way diminishes any of the entities' obligation to pay applicable delinquent RAFs and accrued statutory late payment charges. If an entity's certificate is cancelled in

accordance with this Order, that entity shall immediately cease and desist providing competitive local exchange services in Florida. If any company listed in this Order has its certificate cancelled, and subsequently decides to reapply for a certificate as a competitive local exchange telecommunications company, that company shall be required to first pay any outstanding penalties and cost of collection and fees, including accrued statutory late payment charges. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.337, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the entities listed herein shall pay a penalty and cost of collection, together totaling \$500, and the 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, within 14 days after the issuance of the Consummating Order. 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 the past due RAFs, in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. The statutory late payment charge 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 any of the entities fail to comply with this Order, that entity's certificate shall be cancelled, effective December 31, 2005, and the respective docket shall be closed. It is further

ORDERED that the cancellation of the certificate in no way diminishes any of the entities' obligation to pay applicable delinquent Regulatory Assessment Fees, and accrued statutory late payment charges. If any company listed in this Order has its certificate cancelled, and subsequently decides to reapply for a certificate as a competitive local exchange telecommunications 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 an entity's certificate is cancelled in accordance with this Order, that entity shall immediately cease and desist providing Competitive Local Exchange Telecommunications services in Florida. It is further

ORDERED that any protest to the action proposed herein shall specify the entity or entities to which it applies. It is further

ORDERED that if a protest to this Order is filed, the protest shall not prevent the action proposed herein from becoming final with regard to the remaining entities listed in this Order. 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, these dockets shall be closed upon receipt of the imposed penalty and cost of collection, together totaling \$500, and Regulatory Assessment Fees, including statutory late payment charges, or upon cancellation of the certificate.

By ORDER of the Florida Public Service Commission this _____ day of _____, _____.

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

(S E A L)

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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 _____.

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.