

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: March 27, 2008

TO: Office of Commission Clerk (Cole)

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

RE: Docket No. 080047-TP – Request for cancellation of CLEC Certificate No. 7943, and for acknowledgment of cancellation of IXC Registration No. TJ557 by Telsys, Inc., effective December 31, 2007.

AGENDA: 04/08/08 – 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\080047.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission cancel Telsys, Inc.'s Competitive Local Exchange Telecommunications Company (CLEC) Certificate No. 7943 and Intrastate Interexchange Telecommunications (IXC) tariff and remove its name from the register on its own motion effective December 31, 2007; notify the Division of Administrative Services that any unpaid Regulatory Assessment Fees should not be sent to the Florida Department of Financial Services, and request permission to write-off the uncollectible amount?

Recommendation: Yes, the company's CLEC certificate, IXC tariff, and registration should be cancelled on the Commission's own motion. (Isler, McKay)

Staff Analysis: See attached proposed Order.

The Commission has previously approved the cancellation of a certificate under similar circumstances (death of an owner) in Docket No. 041426-TC, In Re: Compliance investigation of Lane Jones for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies. In Order PSC-05-0557-PAA-TC the Commission ordered that the outstanding regulatory assessment fees should not be sent to the Department of Financial Services for collection.

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 entity 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. The company's CLEC certificate and IXC tariff should be cancelled administratively, the company's name should be removed from the register, and the collection of the unpaid Regulatory Assessment Fees, including statutory late payment charges, should not be referred to the Florida Department of Financial Services for further collection efforts. If the company's CLEC certificate and IXC tariff are cancelled and its name removed from the register in accordance with the Commission's Order from this recommendation, the company should be required to immediately cease and desist providing telecommunications services in Florida. This docket should be closed administratively upon cancellation of the company's CLEC certificate and IXC tariff and removal from the register. (McKay)

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: Request for cancellation of CLEC
Certificate No. 7943, and for acknowledgment
of cancellation of IXC Registration No. TJ557
by Telsys, Inc., effective December 31, 2007.

DOCKET NO. 080047-TP
ORDER NO.
ISSUED:

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. MCMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION ORDER
CANCELLING COMPETITIVE LOCAL EXCHANGE TELECOMMUNICATIONS
COMPANY CERTIFICATE AND INTRASTATE INTEREXCHANGE CARRIER TARIFF
AND REGISTRATION ON THE COMMISSION'S OWN MOTION

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.

Telsys, Inc. currently holds Certificate No. 7943, issued on November 2, 2001, authorizing the provision of competitive local exchange telecommunications service (CLEC) and intrastate interexchange telecommunications (IXC) Registration No. TJ557 issued on November 5, 2001. Pursuant to Section 364.336, Florida Statutes, telecommunications companies must pay a minimum annual Regulatory Assessment Fee (RAF) for each certificate or registration if the certificate or 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 RAF 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. In addition, Rule 25-24.820, Florida Administrative Code, provides that a company requesting cancellation of its certificate must state its intent and date to pay the current RAF. Rule 25-24.474, Florida Administrative Code, provides that intrastate interexchange companies must pay any current and past due RAFs with its request for cancellation.

On January 18, 2008, this Commission received a letter dated January 14, 2008, from Mr. Brian R. Booth, CPA, requesting cancellation. Mr. Booth attached the IXC Regulatory Assessment Fee return form showing zero revenues. Our staff contacted Mr. Booth, who stated that Telsys, Inc.'s owner Mr. Hugh Savage, passed away in May 2007. He stated that he was dissolving the corporation for Mrs. Savage. He advised that the company has no customers, the corporation no longer exists, and that there are no funds to pay the fees. Our staff confirmed via the Internet that Mr. Savage passed away on May 16, 2007. The Regulatory Assessment Fees remain unpaid.

This Commission cannot grant a voluntary cancellation unless all outstanding fees have been paid. Accordingly, we shall cancel Telsys, Inc.'s CLEC certificate and IXC tariff and remove its name from the register on this Commission's own motion, effective December 31, 2007. In addition, the Division of Administrative Services shall be notified that the 2007 Regulatory Assessment Fees shall not be sent to the Florida Department of Financial Services for collection, and permission for the Commission to write-off the uncollectible amount will be requested. Telsys, Inc. shall immediately cease and desist providing telecommunications service in Florida. If the company has its CLEC certificate and IXC tariff cancelled and its name removed from the register, and subsequently decides to reapply for certification as a telecommunications company, that company shall be required to first pay any outstanding fees, including accrued statutory late payment charges. We are vested with jurisdiction over this matter pursuant to Sections 350.113, 364.336, 364.337, 364.02, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Telsys, Inc.'s CLEC Certificate No. 7943 is cancelled effective December 31, 2007. It is further

ORDERED by the Florida Public Service Commission that Telsys, Inc.'s IXC tariff is cancelled and its name removed from the register effective December 31, 2007. It is further

ORDERED that the unpaid Regulatory Assessment Fees shall not be sent to the Department of Financial Services for collection. The Division of Administrative Services, instead, shall request permission to write-off the uncollectible amount. It is further

ORDERED that if Telsys, Inc.'s CLEC certificate and IXC tariff are cancelled and its name removed from the register and it subsequently decides to reapply for certification and registration as a telecommunications company, that company shall be required to first pay any outstanding fees, including accrued statutory late payment charges. It is further

ORDERED that if Telsys, Inc.'s CLEC certificate and IXC tariff are cancelled and its name removed from the register in accordance with this Order, Telsys, Inc. shall immediately cease and desist providing 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.

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

ANN COLE
Commission Clerk

(S E A L)
VM

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 _____.

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.