

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 26, 2009

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Compliance (Isler)
Office of the General Counsel (McKay)

RE: Docket No. 080716-TI – Acknowledgment of cancellation of IXC Registration No. TK036 by TS Telecommunications, Inc. d/b/a CrossFone, effective December 18, 2008.

Docket No. 080717-TI – Acknowledgment of cancellation of IXC Registration No. TK118 by Latin Node, Inc., effective December 18, 2008.

Docket No. 080718-TI – Acknowledgment of cancellation of IXC Registration No. TK170 by Total Solutions Telecom Inc., effective December 18, 2008.

AGENDA: 04/07/09 – 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\RCP\WP\080716.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission cancel TS Telecommunications, Inc. d/b/a CrossFone, Latin Node, Inc., and Total Solutions Telecom Inc.'s, Intrastate Interexchange Telecommunications (IXC) tariffs and remove each company's name from the register on its own motion effective

Date: March 26, 2009

December 18, 2008, due to the Assignment for the Benefit of Creditors proceeding; direct the Division of Administrative Services to request permission from the Florida Department of Financial Services to write off any unpaid Regulatory Assessment Fees, including statutory late payment charges, instead of requesting collection services; and require the company to immediately cease and desist providing telecommunications service in Florida?

Recommendation: Yes, each entity's IXC tariff and registration should be cancelled on the Commission's own motion as listed on Attachment A. (Isler, McKay)

Staff Analysis: See attached proposed Order.

Issue 2: Should these dockets be closed?

Recommendation: Yes, these dockets should be closed if no protest is filed and upon issuance of a Consummating Order. (McKay)

Staff Analysis: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. A protest in one docket should not prevent the action in a separate docket from becoming final. These dockets should then be closed upon issuance of a Consummating Order.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Acknowledgment of cancellation of IXC Registration No. TK036 by TS Telecommunications, Inc. d/b/a CrossFone, effective December 18, 2008.	DOCKET NO. 080716-TI
In re: Acknowledgment of cancellation of IXC Registration No. TK118 by Latin Node, Inc., effective December 18, 2008.	DOCKET NO. 080717-TI
In re: Acknowledgment of cancellation of IXC Registration No. TK170 by Total Solutions Telecom Inc., effective December 18, 2008.	DOCKET NO. 080718-TI 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 INTRASTATE INTEREXCHANGE TELECOMMUNICATIONS 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.

TS Telecommunications, Inc. d/b/a CrossFone currently holds Intrastate Interexchange Telecommunications Company (IXC) Registration No. TK036, issued by the Commission on November 16, 2005. Latin Node, Inc. holds IXC Registration No. TK118, issued on November 20, 2006. Total Solutions Telecom Inc. holds IXC Registration No. TK170, issued on November 8, 2007.

Pursuant to Section 364.336, Florida Statutes, telecommunications companies must pay a minimum annual Regulatory Assessment Fee if the certificate was active during any portion of

the calendar year and provides for late payment charges as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

On October 15, 2008, our staff contacted Total Solutions Telecom Inc.'s consultant, Edward Maldonado, about returned mail and asked for an updated address. Mr. Miguel Veizaga, Regulatory Analyst in Mr. Maldonado's office, responded that the company had "gone bankrupt," no longer existed, and requested cancellation. Our staff could not find record of a pending bankruptcy. On December 17, 2008, our staff found that Latin Node, Inc. had filed a petition commencing an Assignment for the Benefit of Creditors Proceeding on June 12, 2008, pursuant to Chapter 727, Florida Statutes. In addition, our staff reviewed the Florida Department of State, Division of Corporations' records, and found that Total Solutions Telecom Inc. and TS Telecommunications, Inc. d/b/a CrossFone had merged into Latin Node, Inc. on June 10, 2008, with Latin Node, Inc. being the surviving company. On December 18, 2008, our staff contacted the consultant's office and inquired about the other two companies. The consultant requested cancellation of all three IXC registrations.

Basically, this type of proceeding is the state equivalent of a federal bankruptcy case. It is a procedure for the administration of insolvent estates, administered by the circuit courts of Florida. The statute provides only for liquidation instead of provisions for efforts to reorganize and survive as is provided in the Federal Bankruptcy Code.

As a rule, secured creditors are given the highest priority in the distribution and, normally receive all of the distributed assets, if any. Regulatory Assessment Fees, late payment charges, and penalties owed by a company to the Florida Public Service Commission, as well as monetary settlements of cases resolving issues of failure to pay such fees, are not secured debts and, as a practical matter, are uncollectible.

This Commission cannot grant a voluntary cancellation unless a company complies with Rule 25-24.474, Florida Administrative Code, which provides a company must pay current and past due Regulatory Assessment Fees at the time it requests cancellation. However, we find it appropriate to cancel each entity's IXC tariff and remove each entity's name from the register on this Commission's own motion effective December 18, 2008.

We are vested with jurisdiction over this matter pursuant to Sections 364.02, 364.336, and 364.285, Florida Statutes. Accordingly, we shall cancel TS Telecommunications, Inc. d/b/a CrossFone, Latin Node, Inc., and Total Solutions Telecom Inc.'s IXC tariff and remove each entity's name from the register on this Commission's own motion, effective December 18, 2008. TS Telecommunications, Inc. d/b/a CrossFone owes the 2008 RAF and statutory late payment charges for 2007 and 2008. Latin Node, Inc. owes the 2008 RAF and statutory late payment charges for 2006, 2007, and 2008. Total Solutions Telecom Inc. owes the 2008 RAF and statutory late payment charges for 2007 and 2008. In addition, any unpaid Regulatory Assessment Fees shall not be sent to the Florida Department of Financial Services for collection, and permission for this Commission to write off the uncollectible amount shall be requested. Each entity shall immediately cease and desist providing intrastate interexchange telecommunications service in Florida.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TS Telecommunications, Inc. d/b/a CrossFone's IXC tariff is cancelled and its name removed from the register, effective December 18, 2008. It is further

ORDERED by the Florida Public Service Commission that Latin Node, Inc.'s IXC tariff is cancelled and its name removed from the register, effective December 18, 2008. It is further

ORDERED by the Florida Public Service Commission that Total Solutions Telecom Inc.'s IXC tariff is cancelled and its name removed from the register, effective December 18, 2008. It is further

ORDERED that each entity's 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 TS Telecommunications, Inc. d/b/a CrossFone, Latin Node, Inc., and Total Solutions Telecom Inc.'s respective IXC tariffs are cancelled and their names removed from the register in accordance with this Order, that entity shall immediately cease and desist providing telecommunications service 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 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, these dockets shall be closed.

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

ANN COLE
Commission Clerk

(S E A L)

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 _____.

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.