

Swafford: *[Signature]*

Clark : *[Signature]* *JMSC*

FLORIDA PUBLIC SERVICE COMMISSION  
Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

MEMORANDUM

AUGUST 15, 1991

TO : DIVISION OF RECORDS AND REPORTING *[Signature]*

FROM : DIVISION OF COMMUNICATIONS [WILLIAMS, STRONG] *[Signature]*  
DIVISION OF LEGAL SERVICES [MURPHY] *[Signature]*

RE : ~~SECRET NO. 910693-TT~~ APPLICATION OF INTERNATIONAL  
TELECOMMUNICATIONS EXCHANGE CORPORATION FOR A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY  
AUTHORIZING OPERATION AS AN INTEREXCHANGE TELEPHONE  
COMPANY IN FLORIDA.

AGENDA : AUGUST 27, 1991 - CONTROVERSIAL - PROPOSED AGENCY  
ACTION - PARTIES MAY PARTICIPATE

PANEL : FULL COMMISSION

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CASE BACKGROUND

Because of a telephone inquiry (April 17, 1991) staff sent a data information request to International Telecommunications Exchange Corporation (INTEX) with a requested response by April 25, 1991. No reply was received.

On June 6, 1991, the Commission's Division of Communications received another inquiry concerning INTEX. Attached to this inquiry, however, was information that established INTEX as a billing and collection company operating in the State of Florida without proper authority. Because of this information, on June 13, 1991, staff again sent a letter to INTEX explaining staff's position regarding marketing agents of telecommunication companies; that INTEX could be subject to a fine if the Commission determined INTEX was violating Chapter 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and requested that either the

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data information request or the application for certification (attached to the letter) be returned by June 28, 1991. Further discussion on show cause proceedings is found in Issue 3.

On June 20, 1991, an application for certification was received from INTEX.

### **DISCUSSION OF ISSUES**

**ISSUE 1:** Does INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION's (INTEX) interexchange carrier application meet the Commission's requirements for certification?

**RECOMMENDATION:** Yes, INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION's (INTEX) interexchange carrier application meets the Commission's requirements for certification.

**STAFF ANALYSIS:** Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and Rule 25-24.471, Florida Administrative Code, Application for Certificate, establish the requirements for certification as an interexchange telephone company (IXC).

On June 20, 1991, INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION (INTEX) filed an application for a Certificate of Public Convenience and Necessity to operate as an interexchange telephone company (IXC).

INTEX, located at 7000 Central Parkway, Suite 1200, Atlanta, GA 30328, is a Delaware corporation, authorized to transact business in Florida. At present, they are certificated as an IXC in Texas and New Jersey. They have no applications pending in any other state, however, INTEX provides interstate services originating from 23 states for which no certification is required. INTEX states that it has not been denied a certificate in any state where filed; no regulatory penalties have ever been imposed; nor has it been involved in any civil court proceedings with IXCs, local exchange companies (LECs) or other telecommunications entities. The company also agrees to comply with the Commission's EAEA requirements, LEC bypass restrictions, payment of regulatory assessment fees and all other applicable Commission rules and orders.

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INTEX is a non-facilities based company which leases switching and transmission capacity, depending upon traffic demand. INTEX initially plans to offer resold long distance service using MCI as its underlying carrier in Florida.

INTEX's application has satisfied our standard filing requirements.

**ISSUE 2:** Does INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION's (INTEX) proposed interexchange carrier tariff meet the Commission's requirements?

**RECOMMENDATION:** Yes, INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION's (INTEX) proposed interexchange carrier tariff meets the Commission's requirements.

**STAFF ANALYSIS:** Rule 25-24.485, Florida Administrative Code, requires that each interexchange carrier wishing to do business in Florida maintain a tariff on file with this Commission of particular format and content. The tariff is of proper format and contains all the provisions of this rule.

The Company's tariff offers the following services:

- NTS with statewide flat rates per minute (i.e. not distance sensitive)
  - Method of access is FGA
  - Method of access is FGB
  - Method of access is FGD
  - Method of access is 800
  
- NTS for pay telephone service providers.
  
- 800 Service (toll free).
  
- Travel Service.
  - Method of access is 950.
  - Method of access is 800.
  
- Directory Assistance service is included.

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INTEX's tariff is unique when compared to other IXC's operating in Florida. Normally rates for interLATA intrastate toll calls have distance sensitive rates. For example, interLATA calls of 0 to 10 miles typically cost less than calls of 11 to 22 miles. In addition, IXC's operating in Florida offer time of day rates with rates for evening calls less than daytime calls and rates for night and weekend calls costing less than calls occurring in the evening or daytime. By comparison, INTEX's rates, unlike other IXC's are not distance sensitive. There are no mileage bands for INTEX's rates. Instead, INTEX groups its customers in bands based on past usage patterns of the particular customer and classifies its customers into six (6) bands by the percentage of daytime traffic their customers generate. The higher the amount of daytime traffic a customer has the higher his rate will be. For example, customers who's past usage patterns indicate that 0% up to 25% of their traffic is spent on daytime calls are charged less than customers who spend 25% to 40% of their traffic time on daytime calls.

INTEX's six (6) rate bands for interLATA intrastate calls are listed below:

**% DAYTIME TRAFFIC**

0 to 25% \*  
25 to 40% \*  
40 to 52% \*  
52 to 72% \*  
72 to 90% \*  
90 to 100% \*

\* Up to, but not including

Although this pricing structure is different than other IXC's, INTEX is not an AOS company and thus is not subject to the ATT-C rate cap. The rates INTEX has filed in its tariff do not appear to be excessively high nor do they violate any statutes, rules or orders.

INTEX's tariff meets our standard filing requirements.

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**ISSUE 3:** Should INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION (INTEX) be required to show cause in writing why it should not be fined for violation of Chapter 25-24.470, Certificate of Public Convenience and Necessity Required, Florida Administrative Code, for providing intrastate communications without first obtaining a Certificate of Public Convenience and Necessity from the Commission?

**RECOMMENDATION:** Yes, INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION (INTEX) should be required to show cause in writing why it should not be fined for violation of Chapter 25-24.470, Certificate of Public Convenience and Necessity Required, Florida Administrative Code, for providing intrastate communications without first obtaining a Certificate of Public Convenience and Necessity from the Commission.

**STAFF ANALYSIS:** Since we do know that INTEX was conducting business in Florida (because of inquiries and INTEX admitting in its application) since February, 1991, staff believes that it is appropriate for the Commission to require INTEX to show cause in writing why it should not be fined for violation of Chapter 25-24.470, Certificate of Public Convenience and Necessity Required, Florida Administrative Code, for providing intrastate communication service without first obtaining a Certificate of Public Convenience and Necessity from the Commission. A review of past penalties of this nature shows a \$2,500 fine issued by the Commission. Due to the severity of the violation, staff recommends the Commission set the amount of fine to be imposed.

**ISSUE 4:** Should a certificate be granted to INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION (INTEX) to operate as an interexchange telephone company in Florida, and should this docket be closed?

**RECOMMENDATION:** Yes, a certificate should be granted to INTERNATIONAL TELECOMMUNICATIONS EXCHANGE CORPORATION (INTEX) to operate as an interexchange telephone company in Florida.

If a show cause order is issued, this docket should remain open for that proceeding. If no show cause order is issued, this docket should be closed after the effective date of the proposed agency action (PAA) order, assuming no protest is received.

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**STAFF ANALYSIS:** The Company's application and tariff have satisfied our certification requirements.

If a show cause is issued then this docket should remain open for that proceeding. If not, then this docket should be closed after the effective date of the consummating order.