



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 4, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *WJ*
DIVISION OF LEGAL SERVICES (BROWN) *WB*

RE: DOCKET NO. 981786-TI - CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELEPHONE CERTIFICATE NO. 4704 ISSUED TO TOUCH TONE AMERICA, INC. FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES AND RULE 25-24.480(2), FLORIDA ADMINISTRATIVE CODE, RECORDS AND REPORTS; RULES INCORPORATED.

AGENDA: 03/16/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981786.RCM

CASE BACKGROUND

Touch Tone America, Inc. (Touch Tone) obtained Certificate No. 4704 on December 27, 1996. The Division of Administration sent the 1997 regulatory assessment fee (RAF) notice by certified mail to the address listed in the Master Commission Directory. The United States Postal Service (USPS) returned the notice stamped "Refused". The USPS did, however, have a forwarding address for the company. On January 23, 1998, staff sent the notice to the address given by the USPS. This letter was returned stamped "Unable to Forward". The Division of Administration notified staff by memorandum that this company did not pay its 1997 RAFs, plus statutory penalties and interest charges. As of February 15, 1999, the company has not paid the past due amount nor provided the Commission with its correct address and telephone number.

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02778 MAR-4 99

FPSC-RECORDS/REPORTING

Based on this information, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a \$500 fine or cancel Touch Tone America, Inc.'s certificate for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fine and regulatory assessment fees, including statutory penalties and interest, are not received, IXC Certificate No. 4704 should be canceled with an effective date of December 31, 1998. **(Biegalski)**

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Staff was notified by the Division of Administration that the company had not paid its 1997 regulatory assessment fees, plus statutory penalties and interest. Therefore, the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the company's certificate if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order

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is not protested and the fine and regulatory assessment fees, including statutory penalties and interest, are not received, the company's certificate should be canceled with an effective date of December 31, 1998.

ISSUE 2: Should the Commission impose a \$500 fine or cancel Touch Tone America, Inc.'s certificate for apparent violation of Rule 25-24.480(2), Florida Administrative Code, Records and Reports; Rules Incorporated?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel the company's certificate if the information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code and fine are not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the required information and fine are not received, IXC Certificate No. 4704 should be canceled with an effective date of December 31, 1998. **(Biegalski)**

STAFF ANALYSIS: Pursuant to Section 364.285, Florida Statutes, the Commission may impose a fine or cancel a certificate if a company refuses to comply with Commission rules. Rule 25-24.474, Florida Administrative Code, establishes the requirements for cancellation of a interexchange telecommunications company certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Pursuant to Rule 25-24.480(2)(a) and (b), Florida Administrative Code, each company is allowed 10 days after a change occurs to file updated information indicating any changes in the certificate holder's address (including street name and address, post office box, city), telephone number and any change in the name and address of the individual who is serving as primary liaison with the Commission. Mail sent to the company was returned to the Commission by the USPS. It has been well over 10 days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information, nor has the company requested cancellation of its certificate in compliance with Rule 25-24.474, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with the Commission rules or cancel the company's Certificate No. 4704 if the fine and information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Reporting Requirements, are not received by the Commission within five business days after the conclusion of the 21-day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the required information and fine are not received, the company's certificate should be canceled with an effective date of December 31, 1998.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of the certificate, this docket should be closed. (Brown)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issues 1 and 2, then Touch Tone will have 21 days from the issuance date of the Order to file a timely protest to the Commission's Proposed Agency Action. If no protest is filed, the docket should be closed upon payment of the fines and fees, or upon cancellation of the certificate.