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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

April 24, 1997

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*  
DIVISION OF LEGAL SERVICES (PENA) *W mcb* *TD*

RE: DOCKET NO. 970388-TI; CANCELLATION BY FLORIDA PUBLIC SERVICE COMMISSION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4445 ISSUED TO TECHNOLOGY RESOURCE GROUP, INC. DBA TRG COMMUNICATIONS, INC. FOR VIOLATION OF RULE 25-24.480(2)(a)(b), FLORIDA ADMINISTRATIVE CODE, RECORDS AND REPORTS; RULES INCORPORATED, AND RULE 25-4.0161, FLORIDA ADMINISTRATIVE CODE, REGULATORY ASSESSMENT FEE.

AGENDA: 05/06/97 REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

SPECIAL INSTRUCTIONS: S:PSC/CMU/WP/970388TI.RCM

CASE BACKGROUND

- Certificate Number 4445 was issued to Technology Resource Group, Inc. d/b/a TRG Communications, Inc. (TRG) on August 29, 1996.
- The Division of Administration received the Delinquent Regulatory Assessment Fee Notice back from the Post Office stamped "moved left no address" (Page 4).
- Communications staff attempted unsuccessfully to reach TRG by calling the telephone number listed in the Master Commission Directory. The number had been disconnected. No other number could be obtained through directory assistance.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission cancel TRG's Interexchange Telecommunications Certificate No. 4445, if it fails to pay a \$250 fine within 30 days of the date the order becomes final, provide staff with the correct mailing address, liaison information and other information as required by Rules 25-24.480, (2) (a) and (b), Florida Administrative Code, Records and Reports; Rules Incorporated, and submit its regulatory assessment fee, along with the statutory penalties and interest charges, as required by Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees?

RECOMMENDATION: Yes. Collected fines are to be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to 364.285(1), Florida Statutes.

STAFF ANALYSIS: Pursuant to Chapter 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 an interexchange telephone company (IXC) certificate. The rule provides for the Commission to cancel a certificate on its own motion for violation of Commission Rules and Orders.

Pursuant to Rules 25-24.480 (3) (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. 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.

Mail sent to TRG in February was returned to our Division of Records and Reporting on March 13, 1997. Further investigation indicated that TRG's telephone number listed in the Master Commission Directory was disconnected and no other listing could be obtained through directory assistance.

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Rule 25-4.0161, Florida Administrative Code, states in pertinent parts:

(2) Regulatory assessment fees and the applicable regulatory assessment fee return form are due each January 30 for the preceding period or any part of the period from July 1 until December 31, and on July 30 for the preceding period or any part of the period from January 1 until June 30.

(5) The delinquency of any amount due to the Commission from the company pursuant to the provisions of s. 350.113, Florida Statutes, and this rule, begins with the first day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in s. 350.113, Florida Statutes, shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

As of March 26, 1997, the regulatory assessment fee, along with the statutory penalties and interest charges, had not been submitted for TRG.

Therefore, the company has failed to comply with Rules 25-24.480(2)(a) and (b), Florida Administrative Code, and Rule 25-4.0161, Florida Administrative Code, in that it has not filed with staff the change in mailing address, liaison information etc. within 10 days after the change occurred or submitted its regulatory assessment fee, along with the statutory penalties and interest charges.

Accordingly, staff recommends that the company's certificate be canceled unless it pays a \$250 fine, provides staff with the information required in accordance with Rules 25-24.480 (3)(a) and (b), Florida Administrative Code, within 30 days of the Order becoming final, and submits its regulatory assessment fee, along with the statutory penalties and interest charges, as required in Rule 25-4.0161, Florida Administrative Code.

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Staff notes cancellation or a fine is consistent with previous proceedings of this nature.

**ISSUE 2:** Should all certificated interexchange telecommunication companies discontinue providing interexchange telecommunications service to TRG pursuant to Rule 25-24.4701(3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** Rule 25-24.4701(3), Florida Administrative Code, states:

(3) The Commission, upon making a determination that a customer of an interexchange company is unlawfully reselling or rebilling intrastate interexchange service may issue an order that directs the customer to cease and desist reselling or rebilling such service and simultaneously directs the interexchange company to discontinue providing such service to such customer and/or to cease providing service to such customer at additional locations within Florida, provided that such discontinuance or limitation of service is technically feasible within the context of existing facilities and technology.

If the Commission approves staff's recommendation in Issue 1, TRG's interexchange telecommunications certificate no. 4445 will be canceled, and any intrastate IXC service offered by TRG would be unlawful.

Therefore, staff recommends that the Commission order all certificated IXC's to discontinue providing intrastate long distance service to TRG.

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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, and the provider will have 30 days from the date the Order becomes final to pay a \$250 fine, which shall be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to 364.285(1), Florida Statutes, provide staff with the information as required by Rules 25-24.480 (3) (a) and (b), Florida Administrative Code, and submit its regulatory assessment fee, along with the statutory penalties and interest charges, as required in Rule 25-4.0161, Florida Administrative Code, or its certificate will be canceled without further Commission action. Upon payment of the fine or cancellation of the certificate, this docket should be closed without further Commission action.

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issue 1, then the provider will have 30 days from the date the Order becomes final to pay a \$250 fine, which shall be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to 364.285(1), Florida Statutes, provide staff with the information as required by Rules 25-24.480 (3) (a) and (b), Florida Administrative Code, and submit its regulatory assessment fee, along with the statutory penalties and interest charges, as required in Rule 25-4.0161, Florida Administrative Code, or its certificate will be canceled without further Commission action. If no protest is filed in this docket, the docket should be closed after the conclusion of the 30 day period.