

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 941079-TI
certificate to provide) ORDER NO. PSC-95-0851-FOF-TI
interexchange telecommunications) ISSUED: July 17, 1995
service by Telcom Network, Inc.)
d/b/a Telcom Network, Inc. of)
Delaware.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING CERTIFICATE TO PROVIDE INTEREXCHANGE TELECOMMUNICATIONS SERVICE AND FINAL ORDER APPROVING SETTLEMENT PROPOSAL

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed in Section II 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.

I. BACKGROUND

On July 18, 1994, we were made aware of complaints being received by the Division of Consumer Affairs against Telcom Network, Inc. (TNI or the company). These complaints concerned unauthorized switching of consumers' long distance telephone service (slamming) from their original carrier to TNI. During the investigation of these complaints, we also became aware of complaints that TNI marketing representatives were misrepresenting themselves as AT&T representatives. On August 18, 1994, we received a reply from TNI advising us that it was in the process of applying for a certificate to operate as a multi-location discount aggregator in Florida. TNI also informed us that it was under the impression that it did not have to obtain a certificate when AT&T "Bill Manager" Service is used to bill and collect from subscribers for resold SDN service. TNI's application was docketed on October

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8, 1994. On November 17, 1994, the company requested that we change the name on its application to Telcom Network, Inc. d/b/a Telcom Network, Inc. of Delaware.

Even though TNI was responsive to our requests for information pertaining to the slamming and misrepresentation complaints, no corrective action was noticed. Therefore, Commission staff filed a recommendation to order Telcom Network, Inc. to show cause in writing why it should not be fined for violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required and Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection. The matter was set to be heard at the June 27, 1995, Agenda Conference. On June 26, 1995, we received a settlement proposal from TNI. Specifically, the company stated that it had terminated agents who had misrepresented themselves as AT&T agents, and instituted a procedure by which it calls every customer to be sure that customers understand that they are switching their service to TNI. The Company also offered to pay a \$3000.00 penalty for the rule violations.

II. Certificate of Public Convenience and Necessity

Upon consideration, we find that it is appropriate to grant TNI a Certificate of Public Convenience and Necessity to provide Interexchange Telecommunications service. TNI took action to meet our certification requirements once it was made aware that certification was necessary. Further, the company has assured the Commission that it will abide all applicable rules.

Interexchange telecommunications service providers are charged with the responsibility of complying with the provisions of Chapter 364, Florida Statutes, and Chapters 25-4 and 25-24, Florida Administrative Code. Moreover, pursuant to the provisions of Order No. 16804, interexchange telecommunications service providers are prohibited from constructing facilities to bypass a local exchange company without express prior approval from this Commission.

This Order, if it becomes final and effective, will serve as Certificate No. 3984. It should be retained as evidence of certification by this Commission.

This docket will be closed following the expiration of the period specified in the Notice of Further Proceedings or Judicial Review section of this Order unless an appropriate Petition, protesting the application, is filed by one whose substantial interests may or will be affected by this proposed agency action,

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as provided in Rules 25-22.029 and 25-22.036(7)(a), Florida Administrative Code.

III. Settlement Proposal

Upon consideration, we approve TNI's settlement proposal. TNI has taken necessary steps to resolve the slamming and misrepresentation complaints.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement proposal of Telcom Network, Inc. d/b/a Telcom Network, Inc. of Delaware is hereby approved as outlined in the body of this Order. It is further

ORDERED that TNI shall pay the penalty described herein within fifteen (15) days of the issuance date of this Order. It is further

ORDERED that we hereby grant, to TNI, Certificate No. 3984 to provide interexchange telecommunications service subject to the conditions stated in the body of this Order. It is further

ORDERED that unless a person, whose interests are substantially affected by the action proposed in Section II, files a Petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, this docket shall be closed upon verification that TNI has paid the penalty approved in the body of this Order.

By ORDER of the Florida Public Service Commission, this 17th day of July, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

MMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

As identified in the body of this order, our action in section II is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 7, 1995. In the absence of such a petition, this order shall become effective on the date subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If the relevant portion of this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Any party adversely affected by the Commission's final action in this matter may request: (1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of

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this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.