

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Combined Companies, Inc. for violation of Rules 25-4.118, Interexchange Carrier Selection, and 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required.

DOCKET NO. 961458-TI
ORDER NO. PSC-97-1295-AS-TI
ISSUED: October 20, 1997

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

In mid-1996, a consumer filed a complaint with this Commission stating that his long distance service had been switched without his permission from AT&T Communications of the Southern States, Inc. (AT&T) to Combined Companies, Inc. (CCI or the company). The consumer further complained that AT&T later billed him a "True Up Charge." Subsequently, we received another complaint, almost identical to the first complaint.

In response to our staff's inquiry into the situation, AT&T stated that CCI was a reseller of AT&T services. AT&T also advised our staff that CCI was its customer and that the complainant, or end user, was CCI's customer. AT&T further stated that pursuant to its tariff on file with the Federal Communications Commission (FCC), CCI was liable for shortfall charges, or true-up charges, if it does not meet a certain revenue commitment each year. AT&T asserted that CCI did not meet its requirement; therefore, AT&T billed the true-up charges on a prorated basis to all of CCI's end user customers.

Our staff then contacted CCI, which is not certificated as an interexchange carrier in Florida, regarding the complaint and

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AT&T's responses. CCI advised our staff that the complainant had agreed to allow CCI to acquire discounts on their AT&T Term Plan. In addition, CCI denied that it was providing interexchange service within Florida.

On February 18, 1997, we issued Order No. PSC-97-0179-FOF-TI, in this docket, requiring CCI to show cause why we should not fine it up to \$25,000 for providing interexchange service without a certificate and for switching a customer's long distance service without authorization (slamming).

CCI responded to the Order to Show Cause by timely filing a request for a hearing. A hearing was scheduled for October 14, 1997. Prior to the hearing, however, CCI submitted a proposed settlement offer by letter dated July 30, 1997. The agreement is attached and incorporated into this Order as Attachment A.

In settlement of this matter, CCI states that the consumers who were on CCI's plan have already been converted back to AT&T, and that AT&T has agreed to refund any true-up charges that CCI customers have paid. CCI has also agreed that if it is able to obtain sufficient address information from AT&T, it will provide notice to all of its former customers in Florida that this charge was applied to their bills, and that the customers may contact AT&T for a refund if they paid the true-up charge amount. CCI will cease engaging in any telecommunications business in Florida without first filing for a certificate from this Commission. In addition, both CCI and AT&T have assured us that AT&T will not attempt to collect any true-up charges that have been billed, but have not been paid by CCI customers.

Between \$2,000 and \$2,500 was applied to each of CCI's approximately 40 end users' bills by AT&T in order to cover the true-up charge. Counsel for AT&T and CCI have indicated to our staff that, based upon the amount placed on customers' bills and the complaints they have reviewed, neither believes that any CCI customer actually paid the amount added to bills to cover the true-up charge. Nevertheless, AT&T has agreed to refund the true-up charge to any customer that may have paid it in order to resolve some of AT&T's issues with CCI.

Based on the foregoing, we find that the settlement is in the public interest. Therefore, we hereby approve Combined Companies, Inc.'s proposal. CCI shall submit a report to us within 30 days of the issuance of this Order informing us when CCI provided notice to

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its former customers of the means by which the customers may obtain a refund.


Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the settlement proposed by Combined Companies, Inc. is attached and incorporated in this Order, and is hereby approved. It is further

ORDERED that Combined Companies, Inc. shall submit a report to us within 30 days of the issuance of this Order outlining how and when CCI provided notice to its former customers of the means by which the customers may obtain a refund.

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 20th day of October, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of 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 and/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.

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September 26, 1997

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Beth Culpepper
State of Florida
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Public Service Commission vs. Combined Companies, Inc.
Docket No. 961458

Dear Ms. Culpepper:

All of the end users in the State of Florida who became CCI's customers, acquired that status as a result of the transfer of certain AT&T Customer Specific Term Plans and/or Revenue Volume Pricing Plans from Winback and Conserve, Inc. (or a related entity) to Combined Companies, Inc. This transfer was pursuant to Order of the United States District Court in and for the District of New Jersey on May 19, 1995.

Since only the plans were transferred to CCI, and since it did not have original contact with the end users, the specific identity and address of the end users was never provided and therefore was not maintained in CCI's files. Previously, CCI had requested, and was refused this information from AT&T. At all times, AT&T billed the end users, and collected all payments from the end users.

Except for three identifiable complainants, Killearn Brokers, Road Runner Travel Resort, and the Getzen, Hagin Law Firm, CCI cannot specifically identify any other Florida end users. However, we can "guesstimate" that we had approximately forty Florida end users as of May, 1997.

Although CCI did not invoice the end users as previously stated, based upon the little information that we have about the invoicing of the "true-up charges", we believe that the average charge was in the range of \$2,000.00 to \$2,500.00.

CCI is unaware of any end user actually paying a true-up charge, and has not received any complaints from any Florida end-user in this regard.

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ATTACHMENT A

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As you know, AT&T has the records of the end-users, and also has records showing which, if any of the end-users actually paid a true-up charge. In order to resolve these proceedings by dismissal, CCI would offer to notify the Florida end-users of their right to a refund of any true-up charges actually paid, if AT&T would provide the names and addresses of such end-users to CCI. In this regard, I have requested this information from AT&T in writing today.

I am hopeful that you will see that CCI is doing all that it can to resolve the Commission's questions and to ensure that the end-users are made whole and not subject to any further inconvenience.

Very truly yours,



JEFFREY A. SARROW

JAS:scb

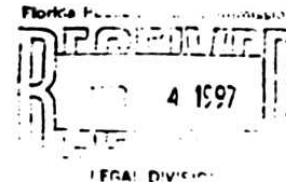
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Docket No. 961458-TI
September 25, 1997

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July 30, 1997



Beth Culpepper
State of Florida
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Public Service Commission vs. Combined Companies, Inc.
Docket No. 961458

Dear Ms. Culpepper:

I wish to advise you that Combined Companies, Inc. and AT&T Corp. have resolved all existing disputes between them, including those matters before the Federal Communications Commission in the matter of AT&T Corp. vs. Combined Companies, Inc. etc. file no. E-97-02 and Combined Companies, Inc. vs. AT&T Corp., Civil action no. 95-908 (NHP) United States District Court, District of New Jersey.

Although the terms and conditions of the settlement are confidential, end-user customers have been converted to direct customers of AT&T as provided for under the terms of AT&T tariffs. Additionally, AT&T has agreed to refund to any of CCI's end-users any shortfall or true-up charges that have been paid in connection with the services previously provided. Also, AT&T will not attempt to collect from the end-users any true-up charges which may have been invoiced or billed to such end-users.

You will be receiving direct communication from AT&T which collaborates those features of the settlement which impact upon the end-users.

Although Combined Companies, Inc. vigorously contests any allegations of wrongdoing, you may be advised that CCI will not engage in the telecommunications business without filing for a certificate in accordance with Rule 25-24.470 Florida Administrative Code.

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July 30, 1997

In view of the foregoing, and since all end-users will be made whole, and will not be further burdened with invoices for true-up charges, it would certainly be in the public interest to terminate the proceedings against Combined Companies, Inc. as we have previously discussed.

I look forward to your prompt advice in anticipation of finalizing this matter.

Very truly yours,



JEFFREY A. SARROW

cc: Combined Companies, Inc.

JAS:scs

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