**FLORIDA PUBLIC SERVICE COMMISSION**

 **Fletcher Building**

 **101 East Gaines Street**

 **Tallahassee, Florida 32399‑0850**

 **M E M O R A N D U M**

 August 5,1993

**TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING**

**FROM : DIVISION OF LEGAL SERVICES [HATCH]**

**DIVISION OF COMMUNICATIONS [BUTLER]**

**RE : DOCKET NO. ‑ 910517-TL - COMPLAINT BY TELCOM RECOVERY CORP. AGAINST TRANSCALL AMERICA, INC. d/b/a ATC LONG DISTANCE REGARDING BILLING DISCREPANCY**

**AGENDA: AUGUST 17, 1993 - CONTROVERSIAL AGENDA - PARTIES MAY NOT PARTICIPATE**

**CRITICAL DATES: NONE**

**SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\910517B.RCM**

 **CASE BACKGROUND**

On April 15, 1991, Telcom Recovery Corp. (Telcom) filed a complaint against ATC alleging that ATC was consistently mistiming calls and billing customers for longer periods than the actual duration of the call. A Prehearing Conference was held on July 15, 1991. A hearing was held on July 18 and 19, 1991. Subsequent to the hearing, Telcom and ATC settled their differences between themselves. Telcom and ATC filed a joint brief August 7, 1991. OPC filed its brief August 7, 1991. The Attorney General of the State of Florida (AG) filed an Amicus Curiae Brief on August 7, 1991.

On August 26, 1991, Telcom filed a Motion for Voluntary Dismissal. Subsequently, on September 3, 1991, OPC filed a response to Telcom's Motion for Voluntary Dismissal. On August 26, 1992, Telcom filed a subsequent Notice of Voluntary Dismissal with Prejudice. OPC filed a Motion to Strike this second notice of dismissal on August 27, 1992.

On July 18, 1991, the Department of Legal Affairs (DLA) initiated an independent investigation of ATC's alleged overcharging of customers. At the request of ATC and with the agreement of OPC, the Commission's consideration of the issues in this case has been deferred pending attempts to resolve the issues raised in DLA's investigation.[[1]](#footnote-1)

On July 8, 1993, ATC, DLA and OPC executed a Settlement Agreement resolving the DLA's investigation. On July 16, 1993, ATC filed an Offer of Settlement seeking to settle the issues pending in this docket. On July 29, 1993, in conjunction with the DLA settlement, OPC filed a Notice of Voluntary Withdrawal of Intervention and Withdrawal of Motion to Strike.

On August 4, 1993, the Hearing Officer filed a recommended order recommending that ATC's Offer of Settlement be approved subject to clarification of paragraph 3 of the Offer. A copy of the Recommended Order is attached as Attachment 1.

 **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission adopt the Hearing Officer's Recommended Order?

**RECOMMENDATION:** Yes, the hearing Officer's Recommended Order should be adopted in its entirety.

**STAFF ANALYSIS:** The Hearing Officer recommends acceptance of the Offer of Settlement subject to a clarification of paragraph 3 of the Offer. Staff fully agrees with the Hearing Officer's reasoning and conclusions including the clarification of paragraph 3 of the Offer. Therefore, Staff recommends that the Recommended Order be adopted in its entirety as the Commission's final order in this proceeding.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, if the Commission approves Staff's recommendation is Issue 1, this docket should be closed.

**STAFF ANALYSIS:** If the Commission approves Staff's recommendation is Issue 1, nothing more remains to be done in this docket and it should be closed.

1. The hearing in this case was held July 18 and 19, 1993, before a panel consisting of Commissioners Deason and Easley. During the pendency of this case Commissioner Easley left the Commission. In the absence of Commissioner Easley and in view of the offer of settlement, it was deemed that the most efficient means to resolve this proceeding was to reassign this case to the remaining panel member acting as a Hearing Officer. [↑](#footnote-ref-1)