

REQUEST TO ESTABLISH DOCKET
(PLEASE TYPE)

Date March 13, 1997

Docket No. 970312 - TI

1. Division Name/Staff Name Division of Legal Services, Charlie Pellearini
2. ~~OR~~ Charlie Pellearini, Division of Legal Services
3. ~~OR~~ Nancy Pruitt, Division of Communications
Shirley Stokes, Division of Consumer Affairs

4. Suggested Docket Title Initiation of Show Cause Proceedings against Long Distance Services, Inc. d/b/a Long Distance Services, Inc., (USA), for violation of Rules 25-4.118 and 25-26.470, Florida Administrative Code, Interexchange Carrier Selection and Certificate of Public Convenience and Necessity Required.

5. Suggested Docket Mailing List

- A. Provide NAMES ONLY for regulated companies or ACRONYMS ONLY regulated industries, as shown in Rule 25-22.104, F.A.C.
- B. Provide COMPLETE name and address for all others. (Match representatives to clients.)

1. Parties and their representatives (if any)

Long Distance Services, Inc. d/b/a
Long Distance Services, Inc. (U.S.A)
Allen Barash
50 W. Big Beaver Road
Troy, Michigan 48064
Ph. (810) 619-9520 / Fax (810) 619-9438

2. Interested Persons and their representatives (if any)

Howard & Joan Butow
4622 North Pink Poppy Drive
Beverly Hills, Florida 34465
Ph. (352) 746-5634

Representative Helen L. Soliver
Florida House of Representatives
516 House Office Building
Ph. (904) 488-0805 32901

Donnie & Faye Corner
102 Marietta Avenue
Panacea, Florida 32507
Ph. (904) 453-9426

6. Check one:

- Documentation is attached.
 Documentation will be provided with the recommendation.

Talbott _____
Vandiver _____

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

March 12, 1997

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

**FROM: DIVISION OF LEGAL SERVICES (PELLEGRINI)
DIVISION OF COMMUNICATIONS (PRUITT)
DIVISION OF CONSUMER AFFAIRS (STOKES)**

**RE: DOCKET NO. 00000000 - LONG DISTANCE SERVICES, INC. (USA)
- INITIATION OF SHOW CAUSE PROCEEDINGS FOR VIOLATION OF
RULES 25-4.118 AND 25-24.470, FLORIDA ADMINISTRATIVE
CODE, INTEREXCHANGE CARRIER SELECTION AND CERTIFICATE OF
PUBLIC CONVENIENCE AND NECESSITY REQUIRED**

**AGENDA: MAY 6, 1997 - REGULAR AGENDA - ISSUE 1 SHOW CAUSE - ISSUE
2 PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY
PARTICIPATE**

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\0.RCM

CASE BACKGROUND

Long Distance Services, Inc. (LDS) d/b/a Long Distance Services, Inc. (USA) was granted a certificate to provide intrastate interexchange telecommunications service on October 13, 1992. The company held Certificate No. 3114.

In April and June of 1995, mail to LDS was returned to the Division of Records and Reporting marked, "moved left no address, unable to forward, return to sender." Rule 25-24.480, Florida Administrative Code, requires an interexchange carrier to inform this Commission within 10 days if there is a change in its address, its telephone number, or its Commission contact person.

On August 17, 1995, a proposed agency action order, PSC-95-1019-FOF-TI, imposing a fine or cancelling the certificate was issued. The company failed to respond to the order. On October

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19, 1995, the certificate was cancelled. In September 1996, staff of the Division of Consumer Affairs spoke with the President of LDS, Allan Barash, and informed him that his company was not longer certificated in Florida. Sixteen months after cancellation, the Division of Consumer Affairs continues to receive unauthorized carrier change complaints against LDS. On March 12, 1997, staff of the Division of Communications informed Mr. Barash again that certification was required. Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should LDS be ordered to show cause why it should not be fined \$25,000 per offense pursuant to Section 364.285, Florida Statutes, for violation of Rules 25-4.118 and 25-24.470, Florida Administrative Code, Interexchange Carrier Selection and Certificate of Public Convenience and Necessity Required, respectively?

RECOMMENDATION: Yes. LDS should be ordered to show cause why it should not be fined \$25,000 per offense. Any collected fine monies should be forwarded to the Office of the Comptroller for deposit in the state General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

STAFF ANALYSIS: The Commission's Division of Consumer Affairs received its first unauthorized carrier change (slamming) complaint logged against LDS on December 10, 1995, approximately two months after its certificate was cancelled. Between December 10, 1995 and February 11, 1997, staff received 15 complaints from customers against LDS for slamming. Rule 25-4.118, Florida Administrative Code, provides in part:

(1) The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization.

(3)(b) Every written document by means of which a customer can request a PIC change shall clearly identify the certificated telecommunications company to which the service is being changed, whether or not that

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company uses facilities of another carrier. The page on the document containing the customer's signature shall contain a statement that the customer's signature or endorsement on the document will result in a change of the customer's long distance service provider.... Such statement shall be clearly legible and printed in type at least as large as any other text on the page. (emphasis supplied)

The company advised staff that it had valid letters of authorization (LOAs) for the change in service, offered credit, and refunded PIC fees. It did not, however, address the issue of operating as an uncertificated intrastate interexchange carrier. (Attachment A, pages 6 - 15)

Rule 25-24.470, Florida Administrative Code, provides in part:

No person shall provide intrastate interexchange telephone service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may deposits or payments for services be collected, until the effective date of a certificate, if granted.

It appears that LDS has provided intrastate interexchange service without a certificate in violation of Rule 25-24.470, Florida Administrative Code. Billing for the LDS service was provided by Integretel, Inc. (Attachment B, pages 16 - 19)

By Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 per offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833). Thus, any intentional act, such as LDS's conduct in issue here, would meet the standard for a "willful violation."

Staff believes that LDS's apparent conduct in providing intrastate interexchange telecommunications services without being certificated to do so has been "willful" in the sense intended by

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Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule."

Accordingly, staff recommends that the Commission find that LDS's apparent violation of Rules 25-24.470 and 25-4.118, Florida Administrative Code, rises to the level warranting that a show cause order be issued. LDS should be ordered to show cause within 20 days of the order why it should not be penalized pursuant to Section 364.285, Florida Statutes.

ISSUE 2: Should all certificated interexchange telecommunications providers be ordered to cease providing service to Long Distance Services, Inc. (USA)?

RECOMMENDATION: Yes

STAFF ANALYSIS: It is apparent in reviewing Attachment B, that after Certificate No. 3114 was cancelled, due to the failure of LDS to respond to Order PSC-95-1019-FOF-TI, intrastate interexchange service and the billing of such service continued. Rule 25-24.4701 (3), Florida Administrative Code provides:

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 services to such customer at additional locations within Florida, provided that such discontinuance or limitation of service is

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technically feasible within the context of existing facilities and technology.

Therefore, to prevent LDS from providing and/or collecting for service from other Florida consumers, staff recommends that the Commission order all certificated interexchange telecommunications providers to discontinue providing intrastate long distance service to this company.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: No, this docket should remain open pending resolution of the show cause and proposed agency action orders.

STAFF ANALYSIS: If the Commission approves either Issue 1 or 2, this docket should remain open pending resolution. Otherwise, this docket should be closed.

Name BUTOW, HOWARD
Address 4622 NORTH PINK POPPY DRIVE

City/Zip BEVERLY HILLS 34465-2804 County CIT
Account Number
Company Contact

Company LONG DISTANCE SERVICES, INC. (U.S.A)
Attn. Allan Barash
Consumer's Telephone # (352)-746-5634
Can Be Reached
Note VIP/Rep. Spivey
Limited Reponse Y

Request No. 1371541
By SAS Time 8:41 AM Date 08/21/96
To CO Time FAX Date 09/16/96
Type S Form Phone
Category
Infraction 1s-13H
Closed by NEP Date 10/10/96
Reply Received L

PLEASE INVESTIGATE THE INFORMATION OUTLINED IN THE ATTACHED CORRESPONDENCE AND PROVIDE ME WITH A DETAILED WRITTEN REPOSE INCLUDING LOA/TAPE AND APPLICABLE CREDITS FOR THE SWITCHING FEES AND LONG DISTANCE CALLS AFTER YOUR CONTACT WITH THE CUSTOMER.

NOTE: On 8/21 complaint was orginally sent to Phone Calls, Inc. previously known as Long Distance Services, Inc. 9/14 PCI responded that the complaint should go to LDS (uncertified) in Troy, Michigan.

9/16 request form faxed to Long Distance Services, Inc. (USA)

10-08 I called the company and spoke with Nancy since Mr. Allan Barash wasn't available. I explained the inquiry was faxed to the company on September 16, 1996 for a report by October 1, 1996. However, I haven't received the report. I asked her to fax a report ASAP to 904/413-6362 since the due date has expired. I also provided my telephone number for her to call if there are any questions.

10/8 report received indicating a check was sent to customer to cover PIC fees and offering to credit calls. Company considers LOA to be valid.

10/10 called and spoke to Mrs. Butow who said she received a letter from the

CONSUMER REQUEST

FLORIDA PUBLIC SERVICE COMMISSION

2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL. 32399-0850
904-413-6100

PLEASE RETURN THIS FORM WITH REPORT OF ACTION TO:

Shirley Stokes

DUE: 10/01/96

company and a check for \$5 for the switching fees. She said she was not billed for any calls and did not need additional credit. Her main concern was that she wanted to see the company punished and that the signature on the LOA was a forgery. She also said she called Rep. Spivey and told her she got the check and letter and that she wanted this company stopped from slamming. I told her that CAF would be sending this info on but could not tell her what the outcome would be and that Rep. Spivey would be sent a letter concerning her complaint and our conversation.

State of Florida

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



DIVISION OF CONSUMER AFFAIRS
BEVERLEE DeMELLO
DIRECTOR
(904) 413-6100
TOLL FREE 1-800-342-3552

Public Service Commission

October 14, 1996

The Honorable Helen L. Spivey
Representative, District 43
2546 W. Norvell Bryant Highway
Squirrel Tree, Unit One
Lecanto, Florida 34461-9422

Dear Representative Spivey:

In reference to the "slamming" complaint of Joan and Howard Butow, I am pleased to report that Mrs. Butow did receive a letter from the company offering to credit her calls, as well as a check for \$5 for the switching fees.

Although the company has followed through with its refunds, Mrs. Butow's primary industry concern remains. She wants to see the company punished, especially since the signature on the LOA was a forgery. For this reason, we are sending her complaint to the Public Service Commission's Division of Communications for further investigation related to a possible show cause.

I appreciate your concern for your constituents and hope that you will call me in the future if I can be of assistance. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Beverlee S. DeMello".

Beverlee S. DeMello, Director
Division of Consumer Affairs

BSD/pr

c: Walter D'Haeseleer, Director, Division of Communications



Long Distance Services, Inc.

FAX COVER PAGE

DATE

10/9/96

LONG DISTANCE SERVICES

(810) 619-9438 Fax

ATTENTION:

SHIRLEY STOKES

FAX TELEPHONE NUMBER:

904 413 6362

PAGES INCLUDING COVER PAGE:

2

FROM:

CRAIG FERHARDT

The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, or the agent or employee responsible to deliver it to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this facsimile in error, please immediately notify us by telephone, and return the original message to us at the address above via the U.S. Postal Service. Thank You.



Long Distance Services, Inc.

September 23, 1996

Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE:Howard Butow (352) 746- 5634
1371541

Dear Ms. Shirley Stokes:

This is in response to the fax that we received from your office in reference to Howard Butow of Beverly Hills Florida. We have in our files a valid LOA that has the apparent signature of Howard Butow. We will be glad to work with Mr. Butow by requesting a copy of the Integretel portion so that we can submit the credit that will show in full the cost for the calls that were billed by Integretel on our be-half. Once we receive the copy we will expedite the credit and it will show up on her home telephone bill in two to three bill cycle. We have also issued a check for the switch fees that were incurred for this inconvenience. I hope that this will help to resolve this matter.

If there are any further questions, please feel free to call me at 1-800-932-1038

Sincerely,

Craig Gerhardt
Customer Service

1-5-1995 2:

FOR LOS FAX SERVER 810 CIO 9136

1 LONG DISTANCE APPLICATION-LETTER OF AGENCY

YES PLEASE
BY FOX & HOURS OF THE LONG DISTANCE AND WOULD LIKE LOS INC TO DONATE A PART OF MY MONTHLY LONG DISTANCE - e
HUGS NOT DRUGS CALIPACION, I wish to subscribe to LOS inc. I do not intend to receive any LOS inc. as my agent.
 My and no claim upon the telephone number listed (Independent Prod. I only share it. I am not a distributor or agent for the telephone service. I do not intend to receive any LOS inc. as my agent.

As the customer would like to receive LOS inc. as my agent, I reserve the right to receive any LOS inc. as my agent.
 I agree to receive any LOS inc. as my agent, I reserve the right to receive any LOS inc. as my agent.

LONG DISTANCE SERVICE. I do not intend to receive any LOS inc. as my agent.
 I agree to receive any LOS inc. as my agent, I reserve the right to receive any LOS inc. as my agent.

As the customer would like to receive LOS inc. as my agent, I reserve the right to receive any LOS inc. as my agent.
 I agree to receive any LOS inc. as my agent, I reserve the right to receive any LOS inc. as my agent.

LONG DISTANCE SERVICE. I do not intend to receive any LOS inc. as my agent.
 I agree to receive any LOS inc. as my agent, I reserve the right to receive any LOS inc. as my agent.

As the customer would like to receive LOS inc. as my agent, I reserve the right to receive any LOS inc. as my agent.
 I agree to receive any LOS inc. as my agent, I reserve the right to receive any LOS inc. as my agent.

Howard Butler

1909 746-5634

426 N. PINK POPPY DR.

THE LODGE - Beverly Hills

FL 34465

3/18/96

LOS INC. LOS ANGELES, CALIFORNIA 90001-5011

CONSUMER AFFAIRS



Florida House of Representatives

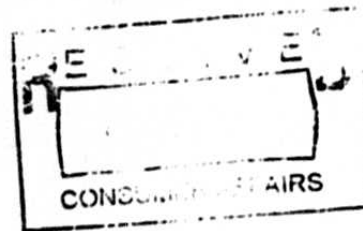
2595 W. Norvell Bryant Highway
Squirrel Tree, Unit One
Leesville, FL 34461-9422
904-860-5161 (Citrus County)
904-860-8577 (Hernando County)
FAX 904-860-5161

HELEN L. SPIVEY
REPRESENTATIVE, DISTRICT 43

416 House Office Building
Tallahassee, FL 32302-1300
904-488-0805

August 7, 1996

Beverlee DeMello
Director, Consumer Affairs
Division of Consumer Affairs
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850



Dear Ms. DeMello:

Enclosed please find copies of documents that we received from one of my constituents. This definitely was a "slam" job by the telephone company. I am sure by now you have also received a letter of complaint from Joan and Howard Butow to further explain this situation.

Please take whatever action is necessary and keep me apprised of any further developments. Thanking you for your assistance in this matter.

Sincerely,

Helen L. Spivey

per
Enclosures

July 1996

Dir of Consumer Affairs
2540 Shumard Oak Blvd
Tallahassee Fla 32399-0810
att: Beverlee De Wello

Dear Beverlee,

We contacted the office of Rep. H. Spencey about a problem we had and we we advised to contact your office ourselves.

Enclosed is a copy of a form requesting a change in our long distance service. We received this copy from Sprint United Telephone Co.

We never filled out this form and neither one of us signed it.

Our long distance
RE E EN

service was switch with
out our consent as per this
form received by Spent-
United.

This was done with
out our knowledge or
permission.

The Rep office said
to fill this complaint in
writing to you.

Thank you

Mrs & Mrs Howard
Buton

This is the second time
I have written about this

RELEASE FORM

Thank you for contacting our office for assistance. So we can better serve you, it is our policy, and in certain circumstances may be required by the Privacy Act of 1974, to obtain written consent from our constituents before we obtain information from public records or release information to a governmental or state agency. If you will complete and sign the following, we will proceed. If you are representing someone, it is necessary that the person represented sign this form.

(Note: This document is a public record, and if requested by anybody, it must be open to that person's inspection.)

DATE 7/9/96
NAME JOAN BITTOW / HOUNED BITOW
ADDRESS 4622 N. Park Poppy Drive.
CITY, ZIP CODE Beverly Hills, FL 34465
PHONE (352) 746-5634

Briefly state the nature of your inquiry: Had telephone long distance company changed to another server - said they had a signed form from Bittow to make switch - he said it was not his signature & never signed form
How would you like us to help? Find out where company is from - how can they just change a person's long distance company

I hereby authorize Representative HELEN SPIVEY to obtain information from or release information to the necessary governmental or state agency in order to resolve my inquiry.

Signature Joan Bittow

Name CONNER, DONNIE & FAYE

Company LONG DISTANCE SERVICES, INC. (U.S.A

Request No 1387381

Address 102 MARIETTA AVE.

Attn. Allan Barash

By RMM Time 11:54 AM Date 09/04/96

City/Zip PENSACOLA 32507 County ESC

Consumer's Telephone # (904)-453-9426

To CO Time MAIL Date 09/05/96

Account Number _____

Can Be Reached _____

Type S Form Phone

Company Contact _____

Note sweepstakes

Category _____

Limited Reponse N

Infraction 1s-13A

Closed by NEP Date 12/30/96

Reply Received T

Customer said their service was switched without authorization in Feb. Investigate this matter, contact customer and provide a response by the date below. Include a copy of the LOA and apply appropriate credits to the account.

9/10 report indicating LOA on file.

9/12 TO COMPANY: Please fax me a copy of the LOA today.

9/18 received bill copies from customer

9/20 TO COMPANY: See attached bill copies and rerate calls to AT&T. Please provide a report regarding this by Sept. 27. Thanks Ruth McHargue.

No further response from company.

CONSUMER REQUEST

FLORIDA PUBLIC SERVICE COMMISSION

2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL. 32399-0850
904-413-6100

PLEASE RETURN THIS FORM
WITH REPORT OF ACTION TO:

Ruth W. McHargue

DUE: 09/20/96



September 13, 1996

Florida Public Service Commission

Attention Ms. Ruth Mc Lague:

Regarding our phone conversation this morning
I am enclosing billing statements from LDS.

Thank you for your efforts on our behalf.
You have restored my confidence in our
Public officials.

Yours truly,

Faye Conner
162 Maritta Ave
Pensacola, FL 32507
904-453-9426



Long Distance Services, Inc.

June 18, 1996

Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Donnie & Faye Conner (904) 453-9426

Dear Ms. Ruth W. McHargue:

This is in response to the fax that we received from your office in reference to Donnie & Faye Conner of Pensacola Florida. We have in our files an LOA that has the apparent signature of Donnie Conner. We will be glade to work with the conner's by requesting a copy of the Integretel portion so that we can submit the credit that will show the difference in what AT&T bills and the rates that we billed at. Once we receive the copy we will expedite the credit and it will show up on her home telephone bill in two to three bill cycle. I hope that this will help to resolve this matter.

if there are any further questions, please feel free to call me at 1-800-932-1038.

Sincerely,


Craig Gerhardt
Customer Service

** Integretel, Inc. **

DONNIE & FAYE CONNER

Account Number: 904 453-9426 011 0562

Bill Period Date: May 29, 1996

 For Integretel, Inc. Billing Questions, Call 1 800 736-7500

Detailed Statement of Charges

<i>Itemized Calls</i>							<u>Amount</u>
<i>Service Provider - LDS, INC.</i>							
<i>Direct Dialed Calls</i>							
<i>Date</i>	<i>Place Called</i>	<i>Number Called</i>	<i>Rate*</i>	<i>Time</i>	<i>Min</i>		
1. 04/01	ITALY	977123810	AR	10:29AM	.4	4.54	
2. 04/03	ITALY	977123810	AR	08:48AM	13	14.78	
3. 04/03	GAINESVL FL	352 331-4272	AD	09:32AM	1.4	.10	
4. 04/05	GAINESVL FL	352 538-7500	AD	11:06AM	8.3	1.96	
5. 04/07	ITALY	977123810	AR	11:08AM	14	15.90	
6. 04/09	ITALY	977123810	AT	01:40PM	13.8	13.80	
7. 04/20	ITALY	977123810	AR	11:55AM	18.3	20.80	
8. 04/22	ITALY	977123810	AT	01:19PM	14.7	<u>14.70</u>	
Total Direct Dialed Calls						86.58	
Total Itemized Calls						86.58	

<u>Taxes</u>	<u>Amount</u>
<i>Taxes on Regulated Services</i>	
9. Federal Tax	2.66
10. Florida Gross Receipts Surcharge	<u>2.16</u>
Total Taxes on Regulated Services	4.82
Total Taxes	4.82
Total Integretel, Inc. Current Charges	91.40

* Taxes and Rates Applied - See Back of First Page

This portion of your bill is provided as a service to Integretel, Inc.
There is no connection between BellSouth and Integretel, Inc.

CP E033190