

Talbott
Vandiver

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED

MEMORANDUM

July 2, 1997

JUL 02 1997
11:50
FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (BIEGALSKI) KB
DIVISION OF LEGAL SERVICES (CULPEPPER) AC MCB

RE: DOCKET NO. 970583-TI - INITIATION OF SHOW CAUSE
PROCEEDING AGAINST NEWS TELECOM, INC. FOR VIOLATION OF
RULE 25-24.470, F.A.C., CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY REQUIRED, AND RULE 25-4.043, FLORIDA
ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF
INQUIRIES.

AGENDA: 07/15/97 - REGULAR AGENDA - ISSUE 1 - SHOW CAUSE -
ISSUE 2 - PROPOSED AGENCY ACTION - INTERESTED
PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\970583TI.RCM

CASE BACKGROUND

The Commission received information that News Telecom, Inc. (News Telecom) may be providing debit card services without a certificate from this Commission. On March 7, 1997, staff sent a certified letter to News Telecom requesting information to help determine if certification is required. News Telecom signed for the certified letter, but did not respond. Staff sent a second certified letter on March 24, 1997, which was also signed for, but to date, staff has not received a response.

In addition, staff received a complaint from Mr. Selvin Ferrell on March 13, 1997, stating that he purchased a debit card, but could not use the card because the 800 number for access was continually busy. Staff sent a letter addressing the complaint to News Telecom with a requested response date of March 28, 1997. The company did not respond. Staff then sent a certified letter with a requested response date of May 8, 1997, which was signed for, but News Telecom failed to respond. Staff has also received another

DOCUMENT NUMBER-DATE

06706 JUL-25

FPSC RECORDS/REPORTING

DOCKET NO. 970583-TI
DATE: July 2, 1997

complaint against News Telecom. Staff forwarded that complaint to the company as well, but the company has not responded.

Because News Telecom has been unresponsive to staff's investigation, we cannot determine whether certification is required. Therefore, we believe the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order News Telecom to show cause in writing why a fine of \$25,000 for apparent violation of Rule 25-24.470, Florida Administrative Code, and \$10,000 for violation of Rule 25-4.043, Florida Administrative Code, should not be assessed?

RECOMMENDATION: Yes. Due to the fact that News Telecom is unresponsive to staff inquiries, and it appears that News Telecom is providing telecommunications service without a certificate, staff believes the Commission should require News Telecom to show cause in writing within 20 days of the issuance of the Commission's Order why it should not be fined \$25,000 for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. The company's response must contain specific allegations of fact or law. If News Telecom fails to respond to the show cause, the fine will be deemed assessed. If the fine is not paid after reasonable collection efforts by the Commission, it should be forwarded to the Office of the Comptroller for collection. If the fine is paid, it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. (Biegalski)

STAFF ANALYSIS: Rule 25-24.470, Florida Administrative Code, states:

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 payment for services be collected, until the effective date of a certificate, if granted. However, acquisition of equipment and facilities, advertising and other promotional activities may begin prior to the effective date of the certificate at the applicant's

DOCKET NO. 970583-TI
DATE: July 2, 1997

risk that it may not be granted. In any customer contacts or advertisements prior to certification, the applicant must advise the customer that certification has not and may never be granted.

On March 7, 1997, staff received information concerning a company called News Telecom, Inc. Staff mailed a certified letter to News Telecom informing it of its responsibility to obtain a certificate in order to provide debit card services. A questionnaire was included with the certified letter and staff requested a return date of March 21, 1997. This letter was received and signed for by News Telecom. On March 24, 1997, staff mailed a second certified letter to News Telecom. This letter was received and signed for by News Telecom on March 31, 1997. To date, staff has not received a response from News Telecom.

Additionally, on March 13, 1997, staff received a consumer complaint regarding a prepaid debit card issued by News Telecom. The consumer stated the 800 access number is constantly busy. Staff sent a letter to News Telecom regarding this complaint, with a response due by March 28, 1997 (Attachment A, pages 6-7). Staff sent a second certified letter to News Telecom on April 23, 1997 with a response date of May 8, 1997. The letter was signed for and received, but News Telecom has not responded (Attachment B, pages 8-9). On April 8, 1997, Consumer Affairs received another complaint regarding a prepaid debit card, with the network services provided by News Telecom. The consumer also stated that the 800 access number was constantly busy. Staff sent a report to News Telecom with a response date of April 24, 1997 (Attachment C, pages 10-12). The letters have been received and signed for by News Telecom but, to date, staff has not received a response on either complaint.

News Telecom, Inc. is listed as the service provider on the Resident Alien Phone Card staff received; and therefore, it appears that News Telecom has violated Rule 25-24.470, Florida Administrative Code, by offering telecommunications service without a certificate. In addition, the 800 access number is constantly busy, and the customer service number has been disconnected.

Pursuant to Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, "...the necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry." It has been well over 15 days and News Telecom has not responded to Commission staff inquiries regarding certification or complaints.

In previous dockets involving companies operating without a certificate and not responding to staff inquiries, fines and

DOCKET NO. 970583-TI
DATE: July 2, 1997

settlements have ranged up to \$40,714. Staff believes that a fine of \$25,000 for operating without a certificate, and a fine of \$10,000 for failure to respond to staff inquiries is appropriate. Therefore, due to the fact that News Telecom is unresponsive to staff inquiries, and it appears that News Telecom is providing telecommunications service without a certificate, staff recommends that the Commission should issue a show cause order.

ISSUE 2: Should the Commission order all certificated interexchange companies (IXCs) to discontinue providing interexchange telecommunications service to News Telecom pursuant to Rule 25-24.4701(3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited?

RECOMMENDATION: Yes. It appears that News Telecom may be operating in Florida without a certificate in violation of Rule 25-24.4701(3), Florida Administrative Code. The order should state that any IXC providing service to the company must contact the Commission at the conclusion of the show cause response period to determine if the show cause proceeding has been concluded. (Biegalski)

STAFF ANALYSIS: Rule 25-24.4701 (3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited, 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.

It appears that News Telecom may be operating in Florida without a certificate. Accordingly, staff recommends that the Commission order all certificated IXCs to discontinue providing intrastate long distance service for resale to this company at the conclusion of the show cause proceeding. If the company is

DOCKET NO. 970583-TI
DATE: July 2, 1997

operating as a distributor, it will not have ordered 800 number network access; therefore the actions will not affect a distributor's business. The order should state that any IXC providing service to the company must contact the Commission at the conclusion of the show cause response period to determine if the show cause proceeding has been concluded.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: The Docket should remain open pending the resolution of the show cause proceeding, and the processing of any protest to Issue 1 that may be filed within 21 days of the issuance of the Order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If no protest to the Commission's decision in Issue 1 is filed, the fine should be assessed, and this docket should be closed. After reasonable collection efforts have been made, the fine should be forwarded to the Comptroller's Office for collection. (Culpepper)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, News Telecom should be ordered to respond within 20 days of the Commission's show cause order. If News Telecom timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If News Telecom fails to respond to the show cause order, the fine should be assessed, and this docket should be closed.

ATTACHMENT A
DOCKET NO. 970583-TI
JULY 2, 1997

STATE OF FLORIDA

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



DIVISION OF COMMUNICATIONS
WALTER D'HAESELEER
DIRECTOR
(904) 413-6600

Public Service Commission

March 13, 1997

CERTIFIED

Mr. John Kutzy
News Telecom
275 N. Franklin Turnpike
Ramsey, NJ 07446

Dear Mr. Kutzy:

We have received a consumer complaint concerning a News Telecom prepaid debit card purchased in Miami by Mr. Selvin Ferril. Mr. Ferril said the access number, 800-510-5910, on the card does not work. He only gets a busy signal. The customer service number on the card is 800-510-5904 and calls are not answered.

Please have a company representative contact the customer to address his concerns. His telephone number is (305)430-0072. His mailing address is 2510 NW 183rd Street, Miami, FL 33056.

Thank you for your attention to this matter. Please provide a report of the resolution of this complaint by March 28. You may contact me at (904) 413-6127, if you have any questions.

Sincerely,

Handwritten signature of Nancy Pruitt in cursive script.

Nancy Pruitt
Research Assistant
Bureau of Service Evaluation

Record #2759

Is your RETURN ADDRESS completed on the reverse side?

SENDER:
• Complete items 1 and/or 2 for additional services.
• Complete item 3, 4a, and 4b.
• Print your name and address on the reverse of this form so that we can return this card to you.
• Attach this form to the front of the mailpiece, or on the back if space does not permit.
• Write "Return Receipt Requested" on the mailpiece below the article number.
• The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):
1. Addressee's Address
2. Restricted Delivery
Consult postmaster for fee.

3. Article Addressed to:
Mr. John Kutzy
News Telecom
275 North Franklin Turnpike
Ramsey, NJ 07446

4a. Article Number: 263571613

4b. Service Type:
 Registered Certified
 Express Mail Insured
 Return Receipt for Merchandise COD

5. Received By: (Print Name) PCL PCL

6. Signature: (Addressee or Agent) [Signature]

7. Date of Delivery: 3/12/97

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Services.

RAMSEY NJ
MAR 17 1997

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



DIVISION OF COMMUNICATIONS
WALTER D'HAESELEER
DIRECTOR
(904) 413-6600

Public Service Commission

April 23, 1997

Mr. John Kutzy
News Telecom
275 N. Franklin Turnpike
Ramsey, NJ 07446

CERTIFIED

Dear Mr. Kutzy:

We have received a consumer complaint concerning a News Telecom prepaid debit card purchased in Miami by Mr. Selvin Ferril. Mr. Ferril said the access number, 800-510-5901, on the card does not work. He only gets a busy signal. The customer service number on the card is 800-510-5904 and calls are not answered.

Please have a company representative contact the customer to address his concerns. His telephone number is (305) 430-9972. His mailing address is 2510 NW 183rd Street, Miami, FL 33056.

Thank you for your attention to this matter. Please provide a report of the resolution of this complaint by May 8, 1997. You may contact me at (904) 413-6546, if you have any questions.

Sincerely,

Kelly Biegalski
Kelly Biegalski
Regulatory Analyst II

Record #2759

is your RETURN ADDRESS completed on the reverse side.

SENDER: • Complete items 1 and/or 2 for additional services. • Complete items 3, 4a, and 4b. • Print your name and address on the reverse of this form so that we can return the card to you. • Attach this form to the front of the mailpiece, or on the back if space does not permit. • Write "Return Receipt Requested" on the mailpiece below the article number. • The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.	
3. Article Addressed to: Mr. John Kutzy NEWS TELECOM 275 North Franklin Turnpike Ramsey, NJ 07446 (certified)		4a. Article Number 2234957112	4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
5. Received By: (Print Name)		7. Date of Delivery JUL 5 - 1 - 97	
6. Signature: (Addressee or Agent) X <i>A. M. ...</i>		8. Addressee's Address (Only if requested and fee is paid)	

Thank you for using Return Receipt Service

PS Form 3811, December 1994

Domestic Return Receipt

TOWNSEND, SANDRA

Company NEWS TELECOM, INCORPORATED

Request No. 1676501

Address 18910 N. W. 39TH COURT

Attn. JOHN KUTZY - 1676501

By CRP Time 1:22 PM Date 04/98/97

City/Zip OPA LOCKA 33055 County DADE

Consumer's Telephone #

To CO Time MAIL Date 04/09/97

Account Number

Can Be Reached

Type S Form Phone

Company Contact

Note

Category

Limited Response N

Infraction

Closed by Date / /

Reply Received

Customer says the following:

The 800 number you have provided for customer service is busy at different times of the day. No contact can be made with your company.

There is approximately \$15.00 left of calls in the card.

Attached is customer's correspondence.

(cc: Rick Moses - CMU)

Please provide the PSC with a full report and a solution to this problem.

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:

Carmen Pena

DUE: 04/24/97

ATTACHMENT C DOCKET NO. 970583-TI JULY 2, 1997

1676501
C. Peña

18910 N.W. 39th Ct.

Opa-Locka.

FL 33055

April 3, 1997

Consumer Affairs

2540 Shumard oak Blvd.

Tallahassee.

FL. 32399.

To whom it may concern,

I purchase This phone card at a pharmacy store in february of this year, which i have send a photo copy off.

This card cost me \$20.00, which i only made a few calls with at first. I try using this card and i only get a message the the circuits are busy all the time off the day. also whenever i dial customer service at 1-800-510-5904 i am told that the number i have called 760-2300 is not in service.

I have \$15.00 and change on this card that i havent yet been able to use up. I am asking for your help in what ever way you can.



Thank you -
Sandra Townsend



Sandra Townsend
18910 NW 39th Ct
Opa Locka, FL 33055



INSTRUCTIONS

1. Dial 1-800-810-8801 *English*
1-800-810-8802 *Español*
1-800-810-8803 *РУССКАЯ*
2. Enter your PIN code when prompted 106 355 8804
3. For USA, Canada, PR, USVI dial 1 + area code + number
For International dial 011 + country code + city + number
4. To make another call DONT HANG UP Press the # key

For assistance, please call customer service at 1-800-810-8804
This card expires on 10/31/97 or six months after first use, whichever occurs first.
News Telecom, Inc. is not responsible for loss, theft or unauthorized use of this card.
©1996 Services provided by NEWS Telecom, Inc. **ND** 20 38973