

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of 9278
Communications, Inc. for apparent violation of
Sections 364.02 and 364.04, Florida Statutes.

DOCKET NO. 030696-TI
FILED: JUNE 8, 2005

TESTIFYING STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-05-0119-PCO-TI, the Staff of the Florida Public Service Commission files its Prehearing Statement.

a. All Known Witnesses

Dale R. Buys

b. All Known Exhibits

Exhibit DRB-1 - 9278 Communications, Inc. 10-K report filed with the Federal Securities and Exchange Commission for the fiscal year ended December 31, 2002.

Exhibit DRB-2 - Letter from Dale R. Buys to Mr. Sajid Kapadia, dated April 21, 2003.

Exhibit DRB-3 - Letter from Melinda Watts to 9278 Communications, Inc. dated May 23, 2003.

Exhibit DRB-4 - Webpages from 9278.COM's website regarding prepaid phone cards sold by the company.

Exhibit DRB-5 - Letter from Craig S. Libson to Blanca S. Bayo dated August 14, 2003, whereby 9278 Communications requested deferral of staff's recommendation from the August 19, 2003, Agenda Conference.

Exhibit DRB-6 - Email from Craig S. Libson to Dale Buys and Jason Rojas, dated September 24, 2003, regarding 9278 Communications position as to whether the company is providing telecommunications services in Florida.

Exhibit DRB-7 - Letter from Dale R. Buys to Craig Libson dated September 29, 2003, requesting information regarding the relationship between IBGH Communications and 9278 Communications.

DOCUMENT NUMBER-DATE

05515 JUN-8 '05

FPSC-COMMISSION CLERK

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Exhibit DRB-8 - Email from Craig Libson to Dale Buys and Jason Rojas dated October 3, 2003, advising that information would be forthcoming.

Exhibit DRB-9 - Table DRB-9, listing consumer complaints and phone cards, and copies of the following consumer complaints referenced by request number: 527036T, 533102T, 53666T, 540752T, 664677T, 576469T, 589021T, 601052T, 602714T.

Exhibit DRB-10 - Section 364.02, Florida Statutes, Definitions, and Section 364.04, Florida Statutes, Schedules of rates, tolls, rentals, contracts, and charges; filing; public inspection.

Exhibit DRB-11 - Section 364.285, Florida Statutes, Penalties.

c. Staff's Statement of Basic Position

Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

d. Staff's Position on the Issues

ISSUE 1: Did 9278 Communications, Inc. provide intrastate telecommunications services in Florida?

Position: Yes. It appears that 9278 Communications, Inc. provided intrastate prepaid calling card services in Florida through its prepaid phone cards. The prepaid phone cards provided by 9278 Communications could be used to place intrastate telephone calls in Florida. Also, 9278 Communications' website lists several phone card products listing 9278 Communications as the service provider.

ISSUE 2: Is 9278 Communications, Inc. listed as the service provider on any prepaid phone cards?

Position: Yes. 9278 Communications is listed as the service provider on the prepaid phone cards labeled as *Arroz Con Pollo Florida* and *X Phone Card Miami*.

ISSUE 3: Did 9278 Communications, Inc. violate Sections 364.02 and 364.04, Florida Statutes, by not filing a tariff and registering as an interexchange telecommunications company in Florida?

Position: Yes. Section 364.02(13), Florida Statutes, requires that each intrastate interexchange telecommunications company shall provide the Commission with such

current information as the Commission deems necessary to contact and communicate with the company. The Commission has established a registration process to facilitate the provision of the contact information. Included in that process is the requirement to submit to the Commission a completed IXC Registration Form. The company has not submitted a completed IXC Registration Form. Section 364.04, Florida Statutes, requires that every telecommunications company shall file with the Commission schedules showing the rates, tolls, rentals, contracts, and charges of that company for service to be performed within the state. To comply with this statute, the company should file a tariff. The company has not submitted a tariff to the Commission. Hence, by not submitting a completed IXC Registration Form and not filing a tariff, 9278 Communications appears to have violated Sections 364.02 and 364.04, Florida Statutes.

ISSUE 4: Should the Commission require 9278 Communications, Inc. to file a tariff and register as an interexchange telecommunications company?

Position: Yes. If the Commission determines that 9278 Communications, Inc. is providing intrastate interexchange services within Florida, the company should be required to file a tariff and register as an interexchange company.

ISSUE 5: Should the Commission impose a penalty upon 9278 Communications, Inc. if the Commission finds that the company violated Sections 364.02 and 364.04, Florida Statutes?

Position: Yes. The Commission should impose a substantial monetary penalty upon 9278 Communications, Inc. if it finds that the company violated Sections 364.02 and 364.04, Florida Statutes.

e. Pending Motions

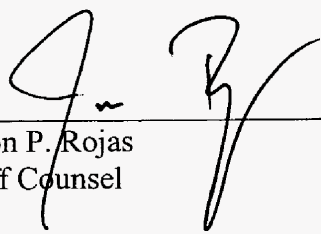
Staff has no pending motions.

f. Pending Confidentiality Claims or Requests

Staff has no pending confidentiality claims or requests.

g. Compliance with Order No. PSC-05-0119-PCO-TI
Staff has complied with all requirements of the Order Establishing Procedure entered in this docket.

Respectfully submitted this 9th day of June, 2005.



Jason P. Rojas
Staff Counsel

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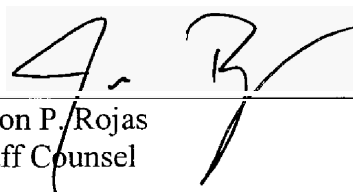
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Testifying Staff's Prehearing Statement has been furnished by U.S. Mail, this 8th day of June, 2005, to the following.

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