

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause	)	DOCKET NO. 910292-TI
proceedings against TELESPIHERE NETWORK,	)	
INC. for violation of Commission Rule	)	ORDER NO. 24448
25-4.111(1) and 25-4.043 regarding	)	
responses to consumer complaints.	)	ISSUED: 4/30/91
	)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 J. TERRY DEASON  
 BETTY EASLEY  
 GERALD L. GUNTER  
 MICHAEL McK. WILSON

ORDER INITIATING SHOW CAUSE PROCEEDINGS AGAINST  
 TELESPIHERE NETWORK, INC. FOR VIOLATION OF RULES 25-4.111(1)  
 AND 25-4.043, FLORIDA ADMINISTRATIVE CODE,  
 REQUIRE RESPONSES TO CONSUMER COMPLAINTS

BY THE COMMISSION:

Telesphere Network, Inc. (Telesphere) has been a certificated provider of interexchange service since September 26, 1988. As an interexchange carrier (IXC), Telesphere is subject to both the various rules governing IXCs and our jurisdiction.

In 1990 consumers filed nineteen (19) complaints with the Division of Consumer Affairs against Telesphere Network, Inc. As each complaint was filed, staff faxed or mailed the written complaint to Telesphere and requested a written response within fifteen (15) days in accordance with Rules 25-4.111(1) and 25-4.043, Florida Administrative Code, and the Division of Consumer Affairs procedures.

In four of the 19 cases, the company did not respond at all to repeated requests for information. Three of these four cases were closed after obtaining information from the local exchange company or the customer. The other case remains unresolved, with no answer received from Telesphere Network despite numerous letters, calls and certified letters requesting information.

Of the remaining fifteen (15) cases, eleven (11) responses received arrived late (past the due date specified on the complaint form for reply). These responses were received only after many attempts to obtain replies to aid in the resolution of the

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complaints. Total attempts to obtain responses to complaints from Telesphere included 13 phone calls, ten faxed messages, four letters via regular mail, and five certified letters. In spite of repeated efforts, Telesphere provided either late or no response on 79% of the complaints.

This problem has continued into 1991 as four complaints have been filed and no responses have been received, despite follow-up requests.

Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries states that:

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.

Telesphere has repeatedly violated the above rule. Despite numerous requests by staff for the information needed in order to resolve and respond to customer complaints, Telesphere provided responses in a timely manner only four times in 1990. On the other fifteen (15) occasions, either no responses were received or responses were received past the 15 days specified in the FPSC rules and in most cases only after many written and verbal requests. In four cases, no responses were ever provided by Telesphere.

Rule 25-4.111, F.A.C., Customer Complaints and Service Requests states:

(1) Each telephone utility shall make a full and prompt investigation of all complaints and service requests made by its customers, either directly to it or through the Commission and respond to the initiating party within fifteen (15) days. The term "complaint" as used in this rule shall be construed to mean any oral or written report from a subscriber or user of telephone service relating to facilities, errors in billing or the quality of service rendered.

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It should be noted that most customers file complaints with the Division of Consumer Affairs only after first attempting to resolve the complaints by contacting the utilities themselves. In fact, part of the division's procedures include screening complaints from customers and referring the customers directly to the utility if they have not already contacted it. Therefore it does not appear that Telesphere's failure to respond is due to the company's having already resolved the customer's concerns as staff determined that the customers who filed complaints were justified in over half of the cases closed.

In addition, nine of the complaints filed against Telesphere concerned charges of "slamming." Slamming is unauthorized changes in a customer's choice of interexchange carrier. In one such case it took Telesphere seven months to provide a response. A complaint alleging an improper carrier change was filed on August 17, 1990, and the response received March 4, 1991 acknowledged that Telesphere "has experienced several cases of unauthorized switchover of phones - both institutional and pay telephones - by our independent sales agents." Telesphere also wrote that it will "actively seek out offending sales agent and is demanding the termination of any representative who engages in deceptive sales practices." It is puzzling that although Telesphere professes concern for this situation and even admits that it is aware of "several cases", it took the company seven months to reply to repeated inquiries.

Telesphere has repeatedly violated our rules by not responding in a timely manner to the reasonable requests made for information to aid in the investigation of customer complaints. In addition, the lack of response by Telesphere caused extra expense as it was necessary for staff to spend an inordinate amount of time calling the company, writing letters and sending certified mail requests in an effort to get the requested information.

Therefore, we believe Telesphere Network should be required to show cause why it should not be fined \$3,800 or \$200 for each case where a response was filed past the due date and in each case where no response was filed at all.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Telesphere Network, Inc. shall show cause why it should not be

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fined \$3,800 for failure to comply with Rules 25-4.111(1) and 25-4.043, Florida Administrative Code. It is further

ORDERED that any response to this Order must be filed within 20 days pursuant to the requirements set forth below. It is further

ORDERED that this docket shall remain open pending resolution of the show cause proceeding.

By ORDER of the Florida Public Service Commission, this 30th day of APRIL, 1991.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

JKA

by: Kay Helgen  
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)

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and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 20, 1991.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.