

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for name change on)	DOCKET NO. 900952-TI
Interexchange Telecommunications)	
Certificate No. 2027 from NATIONAL)	ORDER NO. 25020
TELEPHONE SERVICES, INC. to TELESPIHERE)	
LIMITED, INC.)	ISSUED: 9/5/91
)	

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY

ORDER ACCEPTING MODIFIED SETTLEMENT OFFER AND
APPROVING NAME CHANGE

BY THE COMMISSION:

There have been ongoing problems with the Florida operations of Telesphere Communications, Inc. and its sibling corporations, Telesphere Network, Inc. and National Telephone Services, Inc. (which has asked to change its name to Telesphere Limited, Inc.). One of the more serious concerns of the Commission is that the three corporations, which are operated by a unified staff, failed, for approximately six months, to answer the Commission staff's data request. This represents a violation of Rule 25-4.043, Florida Administrative Code---Response to Commission staff Inquiries---which provides in full 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." (emphasis added).

The Telesphere organization has operated separate corporations---Telesphere Network, Inc. (TNI) and National Telephone Services, Inc. (Telesphere Limited, Inc.) (TLI)---under the undifferentiated, uncertificated and unregistered name of "Telesphere," when the corporations had separate tariffs, with different rates, on file with this Commission; has failed to update the sibling corporations' respective tariffs to reflect AT&T's rates as required by AOS Order No. 20489; and has provided 900 service without a 900 tariff on file with this Commission. These actions represent violations of Rule 25-4.034 (1), Florida Administrative Code---Tariffs---which provides in part that: "Each telephone utility shall maintain on file with the Commission tariffs which set forth all rates and charges for customer

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services, the classes and grades of service available to subscribers, the conditions and circumstances under which service will be furnished and all general rules and regulations governing the relation of customer and utility."

Pursuant to Section 364.14, Florida Statutes, it is the responsibility of the Commission to require reasonable practices of regulated companies. We find that failure to comply with statutes regarding the registration of foreign corporations and fictitious names is inherently unreasonable and subject to corrective action by the Commission. Additionally, the Commission regulates telecommunications companies under a public interest standard. See eg. 364.337 (2)(e), Florida Statutes, (1989). Under this standard, we find that compliance with the Florida Statutes is an appropriate measure of the public interest.

As discussed above, the Telesphere corporations have operated under the unregistered generic name of "Telesphere," which the Commission has interpreted as being the parent corporation, Telesphere Communications, Inc., which is both unregistered with the Department of State and uncertificated by this Commission. The Telesphere organization has also been doing business under the unregistered fictitious names TLI, TNI, and TNI Operator Services. This represents a violation of both Section 865.09, Florida Statutes, (1990)---Fictitious Name Registration, and Section 607.1501, Florida Statutes, (1989)---Authority of Foreign Corporation to Transact Business Required.

Through its August 12, 1991, settlement (Document No. 0-8146) as amended by its August 26, 1991, addendum to the settlement offer (Document No. 08513), Telesphere Communications, Inc. has proposed a compliance schedule to correct the myriad of problems with the sibling Telesphere corporations' tariffs, billing, corporate names, fictitious names. Additionally, Telesphere has agreed to timely respond to our staff's future data requests, and to register the parent corporation, Telesphere Communications, Inc. with the Florida Department of State. Telesphere has also offered to pay a penalty of \$18,000.00 at a rate of \$3,000.00 per month with the first payment to be received by this Commission no later than October 1, 1991. Subsequent payments are to be received by the Commission by the first day of each subsequent month until March 1, 1992, when the entire amount will have been paid.

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We accept the terms of the amended settlement offer with the understanding that the Telesphere Communications, Inc., Telesphere Limited, Inc., and Telesphere Network, Inc. are jointly and severally liable for fulfilling the terms of the agreement, and that failure of the Telesphere corporations to comply with the payment schedule will result in the full amount of the penalty being due immediately, and the matter being brought before the Commission for a show cause proceeding to determine whether the Telesphere certificates of public convenience and necessity to operate in the State of Florida should be canceled.

As the Telesphere corporations are attempting to resolve their tariff, billing, and name registration problems, and have agreed to the payment of a reasonable penalty for rule and statute violations, we find that it is appropriate to approve the requested name change of National Telephone Service, Inc. to Telesphere Limited, Inc.

We find that it is necessary for this docket to remain open until all of the changes proposed by Telesphere Communications, Inc., in its amended settlement offer, to bring the Telesphere corporations into compliance with this Commission's Rules, and the Department of State's registration requirements, have been completed and the payment of the \$18,000.00 penalty has been received by the Commission. At that point, the docket will be brought before the Commission for closing.

Based upon the foregoing it is

ORDERED by the Florida Public Service Commission that we accept Telesphere Communications, Inc.'s August 12, 1991, settlement offer (Document No. 08146) as modified by its August 26, 1991 settlement offer (Document No. 08513). It is further

ORDERED that acceptance of the amended settlement offer is conditioned upon the understanding that failure to comply with the payment schedule, by even one day, will result in the entire amount being due immediately. It is further

ORDERED that such failure additionally will result in the matter being brought before the Commission for a determination of whether the Telesphere organization's certificates of public convenience and necessity to operate in the State of Florida should be canceled. It is further

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ORDERED that the name change from National Telephone Service, Inc. to Telesphere Limited, Inc. is hereby approved. It is further

ORDERED that this docket shall remain open until all of the changes proposed by Telesphere Communications, Inc., in its amended settlement offer, to bring the Companies into compliance with this Commission's Rules, and the Department of State's registration requirements, have been completed, and the payment of the \$18,000.00 penalty has been received by the Commission. At that point, the docket shall be brought before the Commission for closing.

By ORDER of the Florida Public Service Commission, this 5th
day of SEPTEMBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.