

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 941164-TI
certificate to provide) ORDER NO. PSC-95-0925-FOF-TI
interexchange telecommunications) ISSUED: July 31, 1995
service by TELCOM UNITED NORTH,)
INC.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER INITIATING SHOW CAUSE PROCEEDING

Telcom United North, Inc. (TUNI) was previously certificated (TI168, FPSC Certificate No. 3197) as an Interexchange Carrier in Florida. However, on March 11, 1994, the Commission received a request from Ms. Gail Matteo, Administrative Vice President, Telcom United North, Inc. to cancel the company's certificate, effective immediately. Accordingly, the certificate was cancelled by Order No. PSC-94-0552-FOF-TI, issued May 11, 1994, in Docket No. 940298-TI.

Subsequently, complaints were received by the Division of Consumer Affairs regarding the business practices of Telcom United North, Inc. These complaints concerned unauthorized switching of consumers' telephone service from their original carrier to Telcom United North, Inc. During the investigation of these complaints, staff also became aware of complaints that Telcom United North, Inc. was misrepresenting themselves as AT&T representatives. The company resells an AT&T service called, "Software Defined Network" (SDN) and uses AT&T "Bill Manager" Service to bill and collect from subscribers for the resold SDN service.

Because a certificate is required to resell telecommunication services, Telcom United North, Inc. was contacted and another application was mailed to the company on August 8, 1994. The application for certification was completed, returned and docketed on November 1, 1994. By separate order, issued as proposed agency action in this docket today, we have granted TUNI's application for certification.

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FPSC-RECORDS/REPORTING

As stated above, Telcom United North, Inc.'s previous certificate was cancelled at its request on June 2, 1994. TUNI has stated that it believed certification was not needed when AT&T "Bill Manager" Service was used to bill and collect from subscribers for the resold SDN service.

Telcom United North, Inc. (TUNI) appears to have violated Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required;

(1) 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, activities may begin prior to the effective date of the certificate at the applicant's 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.

TUNI has been providing intrastate interexchange telephone service in Florida by reselling AT&T's, "Software Defined Network" (SDN) service and using AT&T "Bill Manager" Service to bill and collect from consumers without being properly certificated. Further, TUNI has allegedly misrepresented themselves as AT&T representatives to end users.

Because of the numerous complaints and the fact that TUNI was once certificated by this Commission, we believe that, unlike other uncertificated interexchange companies, there is prior knowledge of the Commission rules and regulations. Therefore, we find that TUNI should show cause why it should not be fined up to \$25,000.00 pursuant to Section 364.285, Florida Statutes, for each day it was in violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

Telcom United North, Inc. also appears to have violated Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection. Rule 25-4.118, F.A.C. provides:

(1) The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization. A local exchange company (LEC) shall accept PIC change request by telephone call or letter directly from the customers.

(2) A LEC shall also accept PIC change requests from a certificated interexchange company (IXC) acting on behalf of the customer. A certified IXC that will be billing customers in its name may submit a PIC change request, other than a customer-initiated PIC change, directly or through another IXC, to a LEC only if it has certified to the LEC that at least one of the following actions has occurred prior to the PIC change request:

(a) the IXC has on hand a ballot or letter from the customer requesting such change; or

(b) the customer initiates a call to an automated 800 number and through a sequence of prompts, confirms the customer's requested change; or

(c) the customer's requested change is verified through a qualified, independent firm which is unaffiliated with any IXC; or

(d) the IXC has received a customer request to change his PIC and has responded within three days by mailing of an information package that includes a prepaid, returnable postcard and an additional 14 days have past before the IXC submits the PIC change to the LEC. The information package should contain any information required by Rule 24-4.118 (3), Florida Administrative Code.

This Commission has received complaints alleging that consumers primary interexchange carriers were switched without authorization, in contravention of the requirements of this rule. Therefore, we find that Telcom United Northern, Inc. should show cause why it should not be fined up to \$25,000.00 pursuant to Section 364.285, Penalties, Florida Statutes, for each violation of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TELCOM UNITED NORTH, INC. show cause why it should not be fined up to \$25,000 per day for every day it was in violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Necessity and Convenience Required. It is further

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ORDERED that TELCOM UNITED NORTH, INC. show cause why it should not be fined up to \$25,000 per day for each violation of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection. It is further

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

By ORDER of the Florida Public Service Commission, this 31st day of July, 1995.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)
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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.

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) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 21, 1995.

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 wastewater 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.