

MEMORANDUM

APRIL 25, 1996

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (LUGO) *self //*
**RE: DOCKET NO. 960254-TI - ESTABLISHMENT OF APPROPRIATE
REGULATORY POLICY FOR INTEREXCHANGE COMPANIES WHICH ISSUE
PREPAID DEBIT CARDS**

0560 - foF

Attached is an ORDER REGARDING DEBIT CARD SERVICES to be issued in the above-referenced docket. (Number of pages in Order - 5)

SCL/clp
Attachment
cc: Division of Communications
I: 960254.scl

*436 self numbers
19 Dist*

The principal issue regarding debit cards is the considerable potential for fraud. While debit cards are paid for in advance, it is possible to issue cards with an 800 number that does not work at all or that draw down time for unanswered calls and busy signals.

II. Scope of the Investigation

The trade associations and individual providers have stressed that competition and the "marketplace" will provide all of the protection needed by the public. However, these same groups have indicated that they are working on voluntary guidelines for prepaid calling card providers. Any self-imposed provisions that prevent or minimize problems are laudable. However, we cannot rely on this voluntary self-regulation. Such regulation only applies to members of the associations, and only legitimate entities tend to join such organizations.

Information from other state commissions have noted several vulnerable areas in the regulation of PDCs and provides an understanding of the possible remedies which are being used or advocated. Among them are:

1. **Duration of Service.** A prepaid calling card could have printed, on its face or the obverse side, the expiration date of the card. Failure to do so could result in a windfall profit for companies who authorize a short activation period for the cards without customer notification. This measure is generally accepted by the industry, and some states have instituted such a requirement.

2. **Mechanism for Refund of Unused Service.** If a customer finds a prepaid card unusable, there should be a clear procedure for a refund of the cost of the card. This information should be available from the provider and from the retailer. This measure is generally accepted by the industry, and some states have instituted such a requirement.

3. **Retailer Education.** It is generally agreed in the industry that retailers need to be educated about debit cards and can provide information to customers by posting informational signs. Retailers need a mechanism by which they can establish that a provider of PDCs is certificated in the state in which they are doing business prior to offering such cards in their stores.

4. **Customer Service Number.** It is important that customers have a toll-free number to call if they experience trouble with their PDC. This number should be staffed by customer service

representatives and not be a mechanical answering device. This measure is generally accepted by the industry, and some states have instituted such a requirement.

5. **Uncertificated Switchless Resellers.** Not all states require certification of switchless resellers. It is important to educate IXC providers that it is their responsibility to assure that a provider is certificated prior to providing access. IXC providers should not consider this policing their competition, but rather policing themselves as sale to an uncertificated provider is prohibited in Florida.

6. **Bonding Strategy.** Bonds are required in several states, especially for start-up companies with weak financials. However, a bonding scheme cannot aid the consumer when they are victimized by an uncertificated provider. Bonds may reduce the rate at which firms exit the business and may indirectly assist consumers. However, a bond could be considered anti-competitive, especially since most companies are trying to become certificated in all 50 states. Even the least restrictive bond requirement could be daunting to an emerging telecommunications company.

7. **Service Assurance Fund.** A final strategy which is gaining support is the Service Assurance Fund (SAF). The SAF has the advantage of being the only solution which genuinely addresses the problem of consumers while not placing an undue burden upon emerging entrants to the industry. The fund could be enacted on a state-by-state basis or as a national movement. Simply stated, the fund would access each of the providers of debit card services with a one-time flat fee which would be set aside in a fund. The fund would serve as a pool of money from which customers that experienced a loss could apply to for a refund. The SAF would provide a refund for customers even if the PDC company was not certificated in the Florida. The SAF has not been implemented as yet, and further study is needed.

In the State of Florida, we have jurisdiction over all calls originating and terminating within the state. Since there is no restriction placed upon cards which prevent calling into a state in which the provider is not licensed, and there is no restriction on consumers buying a card in one state and bringing it into another state. This is the most vexing problem in formulating safeguards for this portion of the telecommunications industry. We note that prior to reaching this point in our investigation, we required that a \$10,000 bond be posted by: American International Telephone, Inc.; Georgia Public Telephone Co., Inc.; Long Distance of

Michigan, Inc., d/b/a/ LDNI Long Distance; US South Communications, Inc., d/b/a US South and d/b/a INCOMM.

III. Commission Action

We have heard from several representatives of the debit card industry and a representative from the Attorney General's Office and have considered the other information before us.

In order to protect the public from potential abuse in the PDC area, we find it appropriate to move forward on a number of fronts. We will continue to strictly enforce our existing rules both as to certification of carriers issuing PDC's as well as enforcement for unlawful behavior. We will explore and develop an education program to aid public awareness of both the positive and negative aspect.

In addition to education and enforcement, we will investigate further the concept of a Service Assurance Fund as discussed above. It appears that this mechanism may be the most appropriate means of protecting consumers when problems arise with non-working PDC's. In the course of our continuing investigation, we will continue to solicit input from representatives of the industry, the Attorney General's Office and other interested persons.

As a final matter, we have previously imposed a bond requirement on several PDC providers as a condition of certification. Upon further reflection, it does not appear that a bond is the most appropriate protection mechanism. There are limits to the protection a bond can provide since the volume of sales may easily exceed any bond amount unless a company's entire sales volume is subject to a bond. Such a bonding requirement appears too onerous since it becomes a substantial barrier to competitive entry. Accordingly we will not, at this time, continue to require bonds from carriers seeking certification to provide PDC's. Our existing rules governing bonds for IXC's will remain.

Based on the foregoing, it is

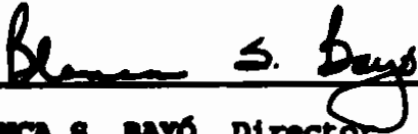
ORDERED by the Florida Public Service Commission that interexchange telecommunication providers not be required to post a bond if they offer debit card services, therefore the Alternative to Issue I is adopted. It is further

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ORDERED that workshops will be held to continue development of our policy in regard to prepaid debit cards. It is further,

ORDERED that this docket will remain open.

By ORDER of the Florida Public Service Commission, this 29th day of April, 1996.



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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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 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.