

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 960217-TI
proceedings against Telecuba,) ORDER NO. PSC-96-0630-FOF-TI
Inc. for violation of Rule 25-) ISSUED: May 10, 1996
24.470, F.A.C., Certificate of)
Public Convenience and Necessity)
Required.)
_____)

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 TO SHOW CAUSE

BY THE COMMISSION:

I. Background

Telecuba, Inc. (Telecuba) has been a Florida Corporation since March 15, 1995. The sole office holder and shareholder of the corporation at the time of incorporation was Luis Coello, according to the Articles of Incorporation filed with the Florida Department of State. Telecuba is or was a provider of debit card services. Prepaid debit cards have become quite prevalent over the past year. They are used in promotional giveaways by shopping malls and other businesses, purchased by parents for their children who are college students, used by people who are transient and may not subscribe to telephone service, and also by persons who simply wish to prepay for service as a way of budgeting their long distance usage.

Telecuba provided this service by purchasing long distance services from World Access Communications Corporation (World Access), a certified interexchange carrier, and reselling the service to end user customers who purchased a debit card which could be used to access an 800 number to place telephone calls. The debit cards were sold by Telecuba or its agents and purchased by the end user customers for a flat fee for a certain amount of minutes of use. For example, a customer might purchase a debit card for \$10 and it would be stated on the card that it could be used for 40 minutes of long distance service by calling an 800 number listed on the back of the card to gain access to the long distance operator or automated operator.

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FPSC-RECORDS/REPORTING

In early December, Mr. Coello contacted our staff several times by telephone regarding his complaint that World Access had disconnected the 800 access numbers Telecuba was using to provide its prepaid calling service. Telecuba was not able to get World Access to reconnect the numbers and unable to get AT&T to reassign the numbers to Telecuba. As a result, end users who had purchased debit cards were not able to complete telephone calls and receive the telephone service for which they had already paid. On December 15, 1995, our staff received a letter from Telecuba detailing this problem.

World Access was issued interexchange carrier certificate No. 2385 in 1989. One of the services provided by World Access is reselling long distance services to other communications companies, and the general public. This is done by purchasing long distance service at wholesale per minute rates from companies such as AT&T and reselling it to other companies that would otherwise be unable to obtain such discounts from a major provider.

The companies have been unable to resolve their differences. It appears that Telecuba is providing service without a certificate in violation of Rule 25-24.470, Florida Administrative Code. In Section II of this Order, we order Telecuba to show cause why it should not be fined for violation of that Rule. In Section III, we order Telecuba to refund money to customers who have purchased bad debit cards. By providing service to Telecuba, it appears World Access is violating Rule 25-24.4701, Florida Administrative Code. By separate Order, we order World Access to show cause why it should not be fined for violation of that Rule. See Docket 960216-TI.

II. Alleged Violations

Rule 25-24.470, Florida Administrative Code, requires that any company that provides intrastate interexchange telephone service must first obtain a certificate of public convenience and necessity from the Commission. As our staff attempted to resolve the dispute between Telecuba and World Access, it learned that Telecuba had been reselling long distance service to end users without a certificate.

It appears that Telecuba purchased minutes of use from World Access, manufactured and encoded cards with a PIN number and then sold them to end users either directly or through retailers. We have copies of call detail records that show calls were completed within Florida. By providing service without a certificate, Telecuba is apparently violating Rule 25-24.470, Florida Administrative Code.

Accordingly, we order Telecuba to show cause why it should not be fined for violation of Rule 25-24.470, Florida Administrative Code.

III. Refunds

According to Telecuba's own letters and conversations with our staff, the debit cards it sold no longer work because the access number is either not in service or has been blocked due to Telecuba's dispute with World Access. Telecuba contacted AT&T and requested that AT&T reassign the number to Telecuba. However, AT&T advised Telecuba that the numbers belonged to World Access.

It appears that Telecuba has sold debit cards that do not work. In order to make the end users whole, Telecuba should make refunds to any customers that can be identified. No records are kept as to what individual purchases a particular card since a card is meant to be used by anyone that has possession of it. Since the cards and PIN numbers are not registered to a particular person, the problem of identifying those customers due a refund must be resolved.

We order Telecuba to show cause why it should not be ordered to run a notice in local media in the area where the cards were sold stating how refunds may be obtained. The notice should state that any customer who returns a debit card with minutes of use remaining, will receive a refund equal to the remaining value. If remaining minutes of use cannot be determined for each card, then the notice should state that the purchase price of the card will be refunded to any customer that turns in a card. While we do not know how many cards Telecuba has sold, this refund method would ensure that at least some of the persons who purchased the cards will get full refunds.

Persons who purchased cards prior to the date the 800 number was disconnected were able to use them, but because Telecuba does not have complete call detail records, it does not know how much time, if any, remains on those cards. Telecuba states it will not be able to determine if customers have used the full amount of long distance service they purchased without complete call detail records showing the PIN numbers. Telecuba should have foreseen this problem and made sufficient business contracts to ensure that it would have the necessary call detail records. However, by separate Order, we have ordered World Access to provide the necessary records.

Telecuba has had ample time to develop a plan for refunding customers who have been unable to use the debit cards but has not

done so. Accordingly, we order Telecuba to show cause why it should not make refunds to any and all customers equal to the amount of purchase or equal to the amount of unused long distance service of each debit card sold. It is unlikely that all persons who purchased cards will seek refunds and Telecuba has no way of knowing the identity of each person who purchased a card. Therefore, there may be monies remaining that are unable to be refunded to the customer. That money should be paid to the Florida Public Service Commission and will be forwarded to the Office of the State Treasurer for deposit in the General Revenue Fund.

IV. Conclusion

Based on the foregoing, we order Telecuba to show cause why it should not be fined for violation of Rule 25-24.470, Florida Administrative Code. We also order Telecuba to show cause why it should not make refunds to customers for each debit card sold equal to the amount of purchase or equal to unused long distance service and run a notice in local media in the area where the cards were sold stating how refunds may be obtained. Telecuba shall respond within the time specified in the "Notice of Further Proceedings or Judicial Review" section of this Order. Telecuba's response must contain specific allegations of facts and law. If Telecuba fails to respond, such failure shall be deemed an admission of all facts contained in this Order and a waiver of its right to a hearing.

It is, therefore,

ORDERED by the Florida Public Service Commission that Telecuba, Inc. show cause, in writing, within twenty (20) days, why it should not be fined for violation of Rule 25-24.470, Florida Administrative Code. It is further

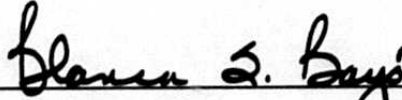
ORDERED that Telecuba, Inc. show cause, in writing, why it should not make refunds to customers for each debit card sold equal to the amount of purchase or equal to unused long distance service and run a notice in local media in the area where the cards were sold stating how refunds may be obtained. It is further

ORDERED that Telecuba, Inc.'s response shall contain specific allegations of fact and law. It is further

ORDERED that failure to respond to this Order in the manner and by the date set forth in the Notice of Further Proceedings or Judicial Review section of this Order shall constitute an admission of the violations described in the body of this Order, and waiver of a right to a hearing.

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By ORDER of the Florida Public Service Commission, this 10th
day of May, 1996.



BLANCA S. BAYÓ, 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.

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 May 30, 1996.

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.

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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.