

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 960295-TI  
certificate to provide ) ORDER NO. PSC-97-0330-FOF-TI  
interexchange telecommunications ) ISSUED: March 25, 1997  
service by World Long Distance, )  
Inc. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

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

ORDER DENYING MOTION FOR IMMEDIATE GRANT  
OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

BY THE COMMISSION:

I. CASE BACKGROUND

On March 6, 1996, World Long Distance, Inc. (WLD) applied to the Commission for a certificate to provide interexchange telecommunications service (IXC) in Florida, Docket No. 960295-TI. Our staff deferred its recommendation on WLD's application, pending the outcome of the Telecuba, Inc. (Telecuba) show cause proceeding in Docket No. 960217-TI, because WLD and Telecuba are owned and managed by the same individuals.

Thereafter, on February 12, 1997, World Long Distance, Inc. filed a Motion for Immediate Grant of a Certificate of Public Convenience and Necessity. This Order addresses WLD's motion.

II. Decision

Chapter 364.337(3), Florida Statutes, relating to intrastate IXC services and certification, states:

(3) The commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served. DOCUMENT NUMBER-DATE

03119 MAR 25 5

FPSC-RECORDS/REPORTING

Rule 25-24.471 (3), Florida Administrative Code, relating to an application for an IXC certificate, states:

(3) A certificate will be granted if the Commission determines that such approval is in the public interest.

Thus, the granting of a certificate is not automatic, but is within our discretion based upon the applicant's ability to meet the criteria.

We have several concerns with WLD's motion. First, the sole owner and president of the IXC applicant WLD, is Mr. Luis Coello. Mr. Coello is also the sole owner and president of Telecuba. Telecuba is the subject of a Commission show cause proceeding for alleged violations of our rules. Until the show cause proceeding is resolved, WLD's managerial capability and ability to hold an IXC certificate in the public interest cannot be determined. Second, Mr. Coello has admitted in his pre-filed direct testimony in the Telecuba case that WLD has and continues to offer intrastate IXC service for Telecuba debit cards without a Commission-approved certificate of convenience and necessity. The provision of such uncertificated service in itself appears to be a violation of Rule 25-24.470, Florida Administrative Code.

Our deferral of a decision in this docket does not violate Section 253(a) of the Telecommunications Act of 1996 (Act) as WLD argues in its motion. This section of the Act provides that no state statute, regulation, or other legal requirement may prohibit an entity from offering intrastate interexchange telecommunications services. Section 253 of the Act, however, must be read and applied in its entirety. Section 253(b) of the Act states:

(b) Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with Section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

Thus, we have authority under federal law, as well as state law, to impose requirements, such as IXC certification based on the public interest, to protect consumers and ensure the quality of telecommunications services. Therefore, if we believe it is

ORDER NO. PSC-97-0330-FOF-TI  
DOCKET NO. 960295-TI  
PAGE 3

necessary to defer granting a certificate to protect Florida consumers and to comply with state law, we have the authority to do so.

Upon consideration, we deny World Long Distance, Inc.'s motion for immediate grant of certificate of public convenience and necessity and defer our decision on World Long Distance, Inc.'s application for a certificate, pending the outcome of Docket No. 960217-TI. Further, we order World Long Distance, Inc. to discontinue intrastate interexchange carrier service in Florida until granted a certificate.

This docket shall remain open until the show cause proceeding against Telecuba in Docket No. 960217-TI is resolved. Upon resolution of Docket No. 960217-TI, we will decide whether WLD should be granted a certificate. We will make our decision on the WLD application at the next available agenda conference after our order in Docket No. 960217-TI becomes final and effective.

Based on the foregoing, it is

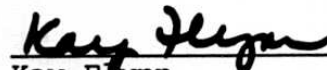
ORDERED by the Florida Public Service Commission that World Long Distance, Inc.'s motion for immediate grant of certificate of public convenience and necessity is hereby denied. It is further

ORDERED that the decision on World Long Distance, Inc.'s application for a certificate is deferred, and this docket shall remain open, pending the outcome of Docket No. 960217-TI. It is further

ORDERED that World Long Distance, Inc. shall discontinue intrastate interexchange carrier service in Florida until granted a certificate.

By ORDER of the Florida Public Service Commission, this 25th day of March, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting



Kay Flynn  
Chief, Bureau of Records

( S E A L )

WPC

ORDER NO. PSC-97-0330-FOF-TI  
DOCKET NO. 960295-TI  
PAGE 4

Commissioner Joe A. Garcia dissented.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.