

MEMORANDUM

April 6, 1998

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TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *BK MCE*

RE: DOCKET NO. 95123?-TI - DADE COUNTY CIRCUIT COURT REFERRAL OF CERTAIN ISSUES IN CASE NO. 92-11654 (TRANSCALL AMERICA, INC. D/B/A ATC LONG DISTANCE VS. TELECOMMUNICATIONS SERVICES, INC., AND TELECOMMUNICATIONS SERVICES, INC. VS. TRANSCALL AMERICA, INC. D/B/A ATC LONG DISTANCE) THAT ARE WITHIN THE COMMISSION'S JURISDICTION.

92-0488-PCD-TI

Attached is an ORDER APPROVING REVISED ISSUES LIST AND AMENDING ORDER ON PROCEDURE, to be issued in the above referenced docket. (Number of pages in order - 5)

BK/anr

Attachment

cc: Division of Communications

I: 951232p2.bk

**MUST GO TODAY**

*4/10*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Dade County Circuit Court referral of certain issues in Case No. 92-11654 (Transcall America, Inc. d/b/a ATC Long Distance vs. Telecommunications Services, Inc., and Telecommunications Services, Inc. vs. Transcall America, Inc. d/b/a ATC Long Distance) that are within the Commission's jurisdiction.

DOCKET NO. 951232-TI  
ORDER NO. PSC-98-0488-PCO-TI  
ISSUED: April 7, 1998

ORDER APPROVING REVISED ISSUES LIST  
AND AMENDING ORDER ON PROCEDURE

Transcall America, Inc., d/b/a Advanced Telecommunications Corp. (ATC) filed this complaint with the Dade County Circuit Court on May 21, 1992, against Telecommunications Services, Inc. (TSI) for alleged failure to pay for telecommunications services rendered. On July 5, 1994, TSI filed a counterclaim alleging breach of contract and improper billing of services. On February 24, 1995, the Court issued its Order Staying Action and Referring to the Florida Public Service Commission. Therein, the Court referred to this Commission for review all claims within the Commission's exclusive jurisdiction under Chapter 364. On January 29, 1997, TSI filed a Motion for Reconsideration of Order Staying Action and Referring to the Florida Public Service Commission and Motion for Leave to Amend Counterclaim with the Dade County Circuit Court. Transcall served its response to the motion on February 20, 1997, and the Commission served a response on April 18, 1997. On May 27, 1997, the Circuit Court issued its Order Denying Motion for Reconsideration and to Amend. This matter has, therefore, been set for hearing August 19 and 20, 1998.

On March 18, 1998, and April 1, 1998, staff conducted informal meetings with the parties regarding the issues approved in Order No. PSC-98-0117-PCO-TP, issued January 21, 1998. The parties and staff reached an agreement that the issues should be modified in order to more clearly address the matters at issue in this docket. The revised issues list is attached as Attachment A to this Order.

DOCUMENT CONTROL

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FILED

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Upon review, these revised issues are appropriate for consideration in this docket. The revised issues are, therefore, approved.

In addition, due to an inadvertent scrivener's error in Order No. PSC-98-0117-PCO-TP, staff was not included in the section regarding the dates for filing testimony. Therefore, Order No. PSC-98-0117-PCO-TP is hereby amended to reflect that testimony shall be filed as set forth below:

1)	Direct testimony and exhibits of Petitioner and Respondent	June 15, 1998
2)	Staff's direct testimony and exhibits, if any	June 15, 1998
3)	Rebuttal testimony and exhibits of Petitioner and Respondent	July 13, 1998
4)	Staff's rebuttal testimony and exhibits, if any	July 13, 1998

Based upon the foregoing, it is

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that the revised issues set forth in Attachment A to this Order are approved for consideration in this Docket. This shall not preclude either party from identifying any new issues not addressed in this Order, in accordance with Rule 25-22.038, Florida Administrative Code. It is further

ORDERED that Order No. PSC-98-0117-PCO-TP is amended as set forth in the body of this Order. It is further

ORDERED that Order No. PSC-98-0117-PCO-TP is reaffirmed in all other respects.

ORDER NO. PSC-98-0488-PCO-TI  
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By ORDER of Commissioner Joe Garcia, as Prehearing Officer,  
this 7th Day of April, 1998.

 *asst. to:*  
\_\_\_\_\_  
JOE GARCIA  
Commissioner and Prehearing Officer

( S E A L )

BK

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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), 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.

**ATTACHMENT A**

Revised Issues

LEGAL

1. Does the Commission have jurisdiction over the disputes arising out of the Telus/TSI contract?

FACTUAL

2. Did Telus/Transcall improperly bill TSI in excess of or violation of the contract between the parties, including, but not limited to, the following specific alleged violations:
  - improperly billing for calls not made, not completed, that were busy, or had bad connections;
  - overcharging calls, double billing calls, or billing for the same call in consecutive bills;
  - improperly charging TSI for 800 calls;
  - billing in increments that were in violation of the contract;
  - improper billing for travel cards and canceled accounts; and
  - supplying improper and inaccurate billing details to TSI.
  
- A. If Telus/Transcall improperly billed TSI in excess of or violation of the contract, did the improper billing result in overcharges?
- B. If overcharges occurred, what is the amount of such overcharges, including any applicable interest?
- C. Did TSI make any payments on any amount overcharged under the contract? If so, how much?

- D. After accounting for any overbilling, refunds, settlements or other credits that may be applicable, what amount, if any, does TSI owe Transcall for the services it received?
3. Did Telus/Transcall improperly bill TSI's customers in excess of or violation of the applicable tariff for intrastate traffic, including, but not limited to, the following specific alleged violations:
- improperly billing for calls not made, not completed, that were busy, or had bad connections;
  - overcharging calls, double billing calls, or billing for the same call in consecutive bills;
  - improperly charging of 800 calls and 800 customers;
  - billing in increments that were in violation of the applicable tariff;
  - improperly billing for travel cards and canceled accounts; and
  - supplying improper and inaccurate billing details to TSI's customers.
- A. If Telus/Transcall improperly billed TSI's customers in excess of or violation of the applicable tariff, did the improper billing result in overcharges?
- B. If overcharges occurred, what is the amount of such overcharges, including any applicable interest?
- C. Did TSI's customer's make any payments on any amount overcharged? If so, how much was paid and to whom were payments made?
- D. After accounting for any overbilling, refunds, settlements or other credits that may be applicable, are TSI's customer due any refund amount? If so, who should pay the refund and how should it be implemented?