

MEMORANDUM

April 9, 1998

RECEIVED

APR 09 1998

FPSC - Records/Reporting

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BOWMAN) *JRB*

RE: DOCKET NO. 971218-TI -Initiation of Show Cause Proceeding against Tel-Save, Inc. d/b/a Network Services Inc. d/b/a The Phone Company for violation of Rule 25-4.043, F.A.C., response to Commission Staff Inquiries and Rule 25-4.109, F.A.C. Records and Reports in General.

PSC-98-0495-AS-TI

Attached is an ORDER APPROVING SETTLEMENT PROPOSAL, to be issued in the above referenced docket. (Number of pages in order - 7)

JRB/anr
Attachment
cc: Division of Communications
I: 971218.jrb

Attachment not on-line

*1 mailed KAR.
4/9/98.*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Tel-Save, Inc. d/b/a Network Services and d/b/a The Phone Company for violation of Rule 25-4.043, F.A.C., response to Commission Staff Inquiries.

DOCKET NO. 971218-TI
ORDER NO. PSC-98-0495-AS-TI
ISSUED: April 9, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER APPROVING SETTLEMENT PROPOSAL

BY THE COMMISSION:

CASE BACKGROUND

On January 13, 1997, our staff notified Tel-Save, Inc. d/b/a Network Services and d/b/a The Phone Company (TPC) that it selected TPC as one of the Interexchange Companies (IXCs) to be evaluated as part of the Commission's normal service quality evaluation. Our staff informed TPC that it would have to provide billing information when the evaluation was completed. In an effort to expedite the process, staff made another request on January 23, 1997, by telephone and facsimile transmission. TPC responded on January 23, 1997, with a calling card and a pin number to allow the staff to conduct its evaluation of timing, billing, call completion and transmission quality for 0+ and 1+ calls. Our staff performed the 1+ call test on February 5, 1997, and the 0+ call test on February 17, 1997.

DOCUMENT NO. 98-0495-AS-TI

04079 APR-98

FILED IN THE OFFICE OF THE CLERK OF THE COMMISSION

On June 20, 1997, our staff notified TPC, by facsimile letter, that it had not received previously requested billing records and asked that the records be forwarded as soon as possible. Staff made a subsequent request during a July 17, 1997, telephone conversation with Ms. Tina Tecce, TPC's Regulatory Affairs Manager. Staff made a third request for the billing records on July 29, 1997, by certified mail. TPC provided billing records for the 1+ evaluation calls on August 5, 1997, by facsimile transmission. On August 6, 1997, our staff requested a written explanation as to why the 0+ billing records had not been provided. TPC responded by facsimile transmission, on August 7, 1997, stating that it had no record of 0+ calls being made on its network using the pin number and access code that it had assigned to staff.

On August 29, 1997, by certified mail, we informed TPC of our intent to initiate a proceeding wherein TPC would be required to show cause why it should not be fined for failure to comply with Commission Staff inquiries in apparent violation of Rule 25-4.019, Florida Administrative Code. TPC provided the 0+ billing information on October 3, 1997.

SETTLEMENT PROPOSAL

TPC has been very cooperative with our staff in attempting to resolve this matter. TPC appeared before us at our November, 18, 1997, Agenda Conference and assured us that it has resolved the problems that caused the delay in responding to Commission staff inquiries. TPC offered a settlement proposal to resolve this matter. (See Attachment A)

The specifics of the settlement proposal include:

- TPC employees are instructed to use overnight mail and faxes to ensure prompt response to Commission inquiries.
- TPC will voluntarily contribute \$5,000.00 (five thousand dollars) to the Commission to be forwarded to the Comptroller for deposit in the State General Revenue Fund.

We accept the terms of TPC's settlement offer. Docket No. 971218-TI shall remain open until the Commission receives TPC's voluntary contribution of \$5,000.00 (five thousand dollars) which will be

ORDER NO. PSC-98-0495-AS-TI
DOCKET NO. 971218-TI
PAGE 3

forwarded to the State Comptroller for deposit in the State of Florida General Revenue Fund.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement proposed by Tel-Save, Inc. d/b/a Network Services and d/b/a The Phone Company in resolution of this show cause proceeding, which is attached to this Order as Attachment A and is incorporated herein by reference, is hereby approved. It is further

ORDERED that Docket No. 971218-TI shall remain open until the Commission receives TPC's voluntary contribution of \$5,000.00 (five thousand dollars) for deposit in the State of Florida General Revenue Fund. Upon receipt, Docket No. 971218-TI shall be closed.

By ORDER of the Florida Public Service Commission this 9th day of April, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief of Records

(S E A L)

JRB

ORDER NO. PSC-98-0495-AS-TI
DOCKET NO. 971218-TI
PAGE 4

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.

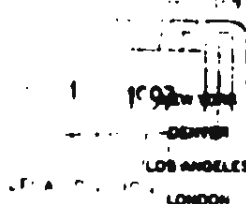
Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days 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.

ARNOLD & PORTER

555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1202

(202) 942-5000
FACSIMILE (202) 942-5888

RICHARD M. FIRESTONE
(202) 942-8820



December 12, 1997

John Bowman, Esq.
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. [REDACTED]
Tel-Save, Inc. d/b/a The Phone Company

Dear Mr. Bowman:

I am writing to you on behalf of Tel-Save, Inc. d/b/a The Phone Company ("TPC") to propose a settlement agreement for Docket No. 971218-TI. While admitting no liability or wrongdoing, TPC proposes to pledge to reply promptly to all future inquiries of the staff of the Florida Public Service Commission (the "Commission") and to contribute \$5,000 to the Commission for forwarding to the Office of the Comptroller for deposit in the State General Revenue Fund.

On November 18, 1997, the Commission voted to initiate a show cause proceeding against TPC for apparently violating Rule 25-4.043, Florida Administrative Code.¹ In recommending initiation of the show cause proceeding, the Commission's staff noted delays in receiving billing records in connection with a

¹ Rule 25-4.043, Florida Administrative Code, provides:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

ARNOLD & PORTER

**John Bowman, Esq.
December 12, 1997
Page 2**

service quality evaluation and delays in receiving responses to consumer complaints.

TPC believes that it made good faith efforts to provide the information that the Commission requested and did not knowingly or willfully violate any statute, rule, regulation or order, or engage in any wrongdoing. With regard to producing billing records, the company that provides billing services to TPC failed to heed TPC's repeated requests to produce in a timely fashion the billing records that the Commission needed. Production of billing records also was delayed because certain correspondence that was intended for TPC was misdirected to an unrelated entity with a similar name. With regard to responding to consumer complaints, TPC employees completed and mailed all responses in advance of the Commission's deadline. However, since these responses were not transmitted by fax or overnight courier, apparently certain responses were time-stamped as received by the Commission a few days late.

TPC believes that the problems that caused the delays that the Commission staff cited have been resolved. With regard to producing billing records, TPC has forcefully reminded its billing vendor of its responsibility to produce all billing records promptly, and is beginning to provide its own billing services on-line to customers through America Online, Inc. In addition, confusion regarding TPC's address apparently has been cleared up. With regard to consumer complaints, TPC employees have been instructed to cause all responses to consumer complaints to be received by the Commission on or before the Commission's deadline and to use faxes and overnight couriers when necessary to ensure timely delivery.

TPC recognizes that unintended delays in receiving information nonetheless create inconvenience and additional expense for the Commission and its staff. Thus, without admitting any liability or wrongdoing, TPC proposes to pledge to reply promptly to all future inquiries of the Commission's staff and to contribute \$5,000 to the Commission for forwarding to the Office of the Comptroller for deposit in the State General Revenue Fund.

ORDER NO. PSC-98-0495-FOF-TI
DOCKET NO. 971218-TI
PAGE 7

ARNOLD & PORTER

John Bowman, Esq.
December 13, 1997
Page 3

Please contact me at (202) 942-5820 to answer any questions and to discuss this matter further.

Very truly yours,



Richard N. Firestone