

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Excel Telecommunications, Inc. for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

DOCKET NO. 971490-TI  
ORDER NO. PSC-98-1000-SC-TI  
ISSUED: July 22, 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 TO SHOW CAUSE

BY THE COMMISSION:

BACKGROUND

On March 21, 1990, we granted Excel Telecommunications, Inc. (Excel or Company), Certificate Number 2440 to provide intrastate interexchange telecommunications service. As a provider of interexchange telecommunications service in Florida, Excel is subject to the rules and regulations of this Commission.

From April 1, 1996, until April 9, 1998, our Division of Consumer Affairs received a total of 37 complaints against Excel that have been determined to be apparent unauthorized carrier change (slamming) infractions in violation of Rule 25-4.118, Florida Administrative Code. Additional complaints against Excel related to slamming are either pending response from the company or closure in the Division of Consumer Affairs.

In 1995, we initiated show cause proceedings against Excel for apparent slamming violations. By Order No. PSC-96-0401-AS-TI, issued March 21, 1996, we approved a \$10,000 settlement offer in

DOCUMENT NUMBER-DATE

07706 JUL 22 88

FPSC-RECORDS/REPORTING

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Docket No. 950468-TI, the docket opened to address the slamming complaints.

Based on the number of additional complaints received since that time, it appears that the safeguards agreed to in the previous settlement were insufficient. We are particularly concerned with the number of apparent violations due to forged letters of authorization (LOAs), because we believe Excel's direct marketing method should ensure considerably more reductions, if not elimination, of fraudulent PIC changes. Therefore, we opened this docket to investigate whether Excel should be required to show cause why it should not be fined or have its certificate canceled, pursuant to Section 364.285, Florida Statutes, for apparent violations of our rules.

#### APPARENT VIOLATIONS

Excel uses multi-level marketers, who solicit customers on a face-to-face basis, as its only method of obtaining new long distance customers. We reviewed the numerous complaints received in the Division of Consumer Affairs regarding Excel's alleged slamming infractions. Our review identified complaints from consumers regarding unauthorized carrier changes due to forged LOAs and keypunch errors. These are the same problems identified in the previous docket.

Rule 25-4.118(2), Florida Administrative Code, states in pertinent part:

A LEC shall also accept PIC change requests from a certificated interexchange company (IXC) acting on behalf of the customer. A certified IXC that will be billing in its name may submit a PIC change request, other than a customer-initiated PIC change, directly or through another IXC, to a LEC only if it has certified to the LEC that at least one of the following actions has occurred prior to the PIC change request:

(a) the IXC has on hand a ballot or letter from the customer requesting such change;

We are concerned that Excel has not taken adequate steps to prevent unauthorized carrier changes and to ensure compliance with the rules of the Florida Public Service Commission.

Examples of complaints received from consumers include the following:

(1) On February 5, 1998, Mr. Jon Wood contacted staff and stated that his long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Mr. Wood. The company considered it to be valid and forwarded it for processing. Staff contacted Mr. Wood on April 14, 1998 in order to verify the LOA. Mr. Wood stated that the social security number listed on the LOA is incorrect and the signature on the LOA is a forgery. (Attachment A)

(2) On August 6, 1997, Ms. Nancy Peterson contacted staff and stated that her long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Ms. Peterson. The company considered it to be valid and forwarded it for processing. Staff contacted Ms. Peterson on April 14, 1998 in order to verify the information on the LOA. Ms. Peterson stated that the social security number was incorrect and that the signature was a forgery. (Attachment B)

(3) On November 17, 1997, Ms. Betty Smith contacted staff and stated that her long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Ms. Smith. The company considered it to be valid and forwarded it for processing. Ms. Smith informed staff that the signature on the LOA is a forgery. (Attachment C)

Based on the complaints reviewed in this docket and Excel's responses to these complaints, Excel has not satisfied us that it is in compliance with the Commission's rules. Pursuant to Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each day a violation continues, or to cancel its certificate, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364, Florida Statutes. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

We find that Excel's apparent conduct in switching preferred interexchange carriers (PICs) without customer authorization has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application

of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as LCI's conduct at issue here, would meet the standard for a "willful violation."

#### CONCLUSIONS

Based on the 37 complaints of unauthorized carrier change infractions and Excel's complaint history, we believe that Excel does not have adequate safeguards to protect consumers from unauthorized carrier changes and has apparently violated Rule 25-4.118(2), Florida Administrative Code. Further, based on Excel's previous history and the high number of apparent slamming violations associated with its direct marketing method, we find that a fine of \$30,000 is more appropriate. Accordingly, we hereby order Excel to show cause in writing within 20 days of the date of this Order why it should not be fined \$30,000 per apparent violation for a total of \$1,110,000 or have its certificate canceled for its apparent violations of Rule 25-4.118, Florida Administrative Code.

If Excel timely responds to the show cause order, this docket shall remain open pending resolution of the show cause proceeding. If Excel does not respond to the Commission's Order to Show Cause, the fines shall be deemed assessed. If Excel fails to respond to the Order to Show Cause, and the fines are not received within five business days after the expiration of the show cause response period, Excel's certificate shall be canceled and this docket closed administratively.

Any fines collected by the Commission shall be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund, pursuant to Section 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Excel Telecommunications, Inc., shall show cause in writing, within twenty days of the date of this Order why its Certificate No. 2440

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should not be canceled or why it should not be fined \$30,000 for each of the 37 apparent violations, for a total of \$1,110,000 for apparent violations of Rule 25-4.118, Florida Administrative Code. It is further

ORDERED that the response of Excel Telecommunications, Inc., shall contain specific allegations of fact and law. It is further

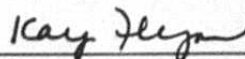
ORDERED that failure to timely respond to this Order in the manner and by the date set forth in the Notice of Further Proceedings or Judicial Review section of this Order shall constitute an admission of the apparent violations described in this Order and waiver of a right to a hearing. It is further

ORDERED that if Excel Telecommunications, Inc., does not respond to this Order in a timely manner, the fines shall be deemed assessed. It is further

ORDERED that if Excel Telecommunications, Inc., fails to respond and does not pay the fines within five business days after the expiration of the show cause period, its certificate shall be canceled and this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 22nd day of July, 1998.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

  
\_\_\_\_\_  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

SOME (OR ALL) ATTACHMENT PAGES ARE NOT ON ELECTRONIC DOCUMENT.

CB

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 August 11, 1998.

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.

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.

Name WOOD, I.C.

Company EXCEL TELE UNICATIONS, INC.

Request No. 2033131

Address 151 W. GEORGE AVENUE

Attn. JOEL BALLEW 2033131

By MEP Time 4:39 PM Date 02/05/98

Consumer's Telephone # (407)-645-2895

To CO Time FAX Date 02/05/98

City/Zip HAITLAND 32751 County ORN

Can Be Reached (407)-645-2895

Type S Form INTERNET

Account Number \_\_\_\_\_

Note \_\_\_\_\_

Category \_\_\_\_\_

Caller's Name JON C. WOOD

Informal Conf. \_\_\_\_\_

Infraction LS-13C

Closed by MEP Date 02/25/98

Reply Received T

Customer states that he was switched from AT&T to Excel without authorization or request. Customer states he has returned to his carrier of choice. Please investigate this matter, contact the customer and provide me with a detailed written report including LOA/Tape and applicable credits for switching fees, as well as an adjustment of rates to that of the customer's preferred carrier by the date below.

02/24/98 Received report with explanation LOA and \$10.14 credit. A letter was sent to the customer.

02/25/98 Closed by e-mail letter to the customer.

**CONSUMER REQUEST**

**FLORIDA PUBLIC SERVICE COMMISSION**

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL. 32399-0850  
904-413-6100

PLEASE RETURN THIS FORM WITH REPORT OF ACTION TO:

ELLEN PLENDL

DUE: 02/24/98

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ATTACHMENT A

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ATTACHMENT A

Printed by Ellen Plendl 2/25/98 7:53am

-----  
From: Ellen Plendl  
To: MAIL @ SMTP{jon\_wood@juno.com}  
Subject: Slamming Inquiry  
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-----NOTE-----  
Mr. Jon C. Wood

Dear Mr. Wood:

We have reviewed your complaint against Excel Communications, Inc.

In an effort to resolve your complaint, we contacted the company and requested a detailed written report on your concerns. It is my understanding that a company representative contacted you to discuss this matter. Based on a review of the information provided to the Florida Public Service Commission (PSC), it appears that the company did not obtain the necessary information to make a switch in your telephone service. The company will go on public record with an infraction against the Florida Administrative Code rules. Excel has sent a credit in the amount of \$10.14 to your local telephone company. This credit should appear in one to two billing cycles.

I share your concerns about unauthorized telephone company changes, or "slamming." The Florida Public Service Commission (PSC) receives more complaints about slamming than any other issue. That is why the PSC is currently developing new rules for the communications industry that will curb slamming.

Customers often tell us that changes in their telephone service were not authorized. Therefore, the PSC is reviewing its rules to ensure that each change is adequately validated by the company claiming a subscriber. The PSC wants to make sure that consumers have an opportunity to tell us about the problems they have encountered with companies changing their preferred local or long distance company. The PSC held 10 rule development workshops in various locations throughout Florida. Commissioners listened to consumers' testimony regarding their slamming experiences and provided consumers with information on how to guard against this unauthorized practice. After considering all public testimony and evidence obtained during the rule development workshops, a formal hearing was held on February 6, 1998, with a second hearing held on February 16, 1998. The PSC staff will now prepare a recommendation in this case for a decision by the Commissioners at a future agenda conference in Tallahassee.

Thank you for the opportunity to address your concerns. If you wish to discuss this or have any questions, please let me know. You may reach me at 1-800-342-3552 or at eplendl@psc.state.fl.us.

Sincerely,

Ellen Plendl  
Regulatory Specialist  
Division of Consumer Affairs





February 24, 1998

*On line with the future*

Ellen Plendl  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Request No. 203313I  
Jon C. Wood

Dear Ms. Plendl:

On February 5, 1998, Excel Telecommunications, Inc. received a complaint filed with your office by Mr. Jon C. Wood.

In his complaint, Mr. Wood indicates that his long-distance service was switched from AT&T to Excel without his authorization. Your office is requesting that Excel provide proof of the authorization to switch Mr. Wood's long-distance service and that the appropriate credit adjustments be issued to his account.

Excel's records indicate that an account was established for Jon Wood on January 29, 1998, after we received a signed application (attached) requesting Excel's long-distance, My800<sup>SM</sup> and calling card services for telephone number (407) 645-2895. On February 5, 1998, Excel received a mechanized transmission from Sprint United telephone indicating that the long-distance service for (407) 645-2895 was switched to another carrier; consequently, Mr. Wood's account was canceled in our database on February 6, 1998.

Excel Telecommunications is a long distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes very seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.

FEB. 24 98

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ATTACHMENT A

1992 803 8/21

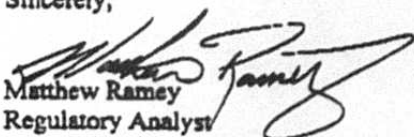
P.003

In an effort to resolve this matter, a credit adjustment of \$10.14 was issued to Mr. Wood's canceled account on February 24, 1998. This credit adjustment reflects a re-rate of Excel's direct-dialed long-distance rates to those of AT&T for calls placed from February 3, 1998, through February 4, 1998, and reimburses him for the switching fees assessed by Sprint United Telephone as a result of this matter. The credit adjustment should appear on his Sprint United Telephone invoice within 60 days.

On February 23, 1998, I contacted Mr. Wood and informed him of the credit adjustment. I assured Mr. Wood that it is never Excel's intention to establish service without the appropriate consent, and I apologized for any inconvenience this matter has caused. Mr. Wood stated that he is satisfied with our resolution.

If you have any questions, please contact me at (800) 783-2909.

Sincerely,

  
Matthew Ramey  
Regulatory Analyst

c: Mr. Jon C. Wood  
151 West George Avenue  
Maitland, FL 32751

REF CONTROL NO. 1097160200296776249



**LONG DISTANCE SERVICE REQUEST FORM (SRF)**

**YOU MUST COMPLETE A SEPARATE SERVICE REQUEST FORM FOR EACH TELEPHONE BILL RECEIVED**

1 PLEASE / CHECK TO INDICATE CUSTOMER STATUS  
 NEW CUSTOMER     EXISTING CUSTOMER

2 Please print customer's information exactly as it appears on their phone bill.

BILLING TELEPHONE NUMBER (REQUIRED)

40 7645 2895

SECOND TELEPHONE LINE ON SAME BILL

THIRD TELEPHONE LINE ON SAME BILL

PLEASE FILL OUT BOXED AREA NEATLY MAKING SURE NOT TO WRITE OUTSIDE OF BOXES AS SHOWN

ABC5551342

TO INSURE PROPER PROCESSING OF YOUR INFORMATION COMPLETE AS SHOWN IN BLACK OR BLUE INK AND PRINT IN CAPITAL LETTERS

3 LAST NAME

WOOD

FIRST NAME

JOHN

ADDRESS LINE 1

151 WEST GEORGE AVE

ADDRESS LINE 2

CITY

OMAHA

STATE

FL

ZIP CODE

32751

SOCIAL SECURITY NUMBER

301-56-2312

INTRALATA SERVICE

PLEASE INITIAL THIS BOX TO SELECT INTRALATA SERVICE. I understand I will be responsible to pay for my long distance calls within my state (except for toll-free calls), unless otherwise indicated by approved serviceable equipment. I understand that my request for service may not be accepted.

SELECT YOUR SERVICE

**Excels Direct Dial™** I understand I will be enrolled in the Direct Dial calling program designed especially for residential customers. All calls will be billed to full-minute increments and charged a flat-rate based upon originating and terminating call features. I understand I will be charged a \$1.00 monthly service fee.

**ExcelsPlus™** I understand I will be enrolled in the ExcelsPlus calling program designed especially for residential customers who make the majority of their calls to other local residential and small business customers. I will automatically receive a 50% discount off Excels' standard rates on all domestic long distance calls to non-toll customers. I will also receive a 50% discount on all calls to local residential and small business customers. I will be charged a \$1.00 monthly service fee.

**PrecederPlus™** I understand I will be enrolled in the PrecederPlus calling plan designed especially for personal residential or small business customers with 775 or less of long distance usage per month. I will automatically receive a 50% discount off Excels' standard rates on all domestic long distance calls to non-toll customers. I will also receive a 50% discount on all calls to local residential and small business customers. All calls will be discount-priced. However, calls billed in an excess increment and there is a minimum \$3.00 monthly service fee.

**Excels Worldwide One™** Excels' WorldWide One calling program is especially designed for international calling needs. I will automatically receive the WorldWide One flat-rate, per country international rates. There is no set-up charge. I pay a \$3 monthly service fee.

**My 800™** There is no set-up charge. I pay only \$1.50 a month plus long distance charges. This number will ring at and be billed to the Billing Telephone Number I have indicated.

**Calling Cards** I request  calling cards (Limit 2)

**Account Cards** (Available only with PrecederPlus™ II)  
 Check number of digits desired  2  3  4  
 \$10.00 monthly fee

REQUEST FOR SERVICE

I authorize Excels to provide the services listed in Paragraph 6 above that will be provided by Excels in my telephone number(s) listed in Paragraph 2 above, and no other IMPORTANT INFORMATION ABOUT THIS SELECTION OF A NEW TELEPHONE COMPANY IS CONTAINED ON THE REVERSE SIDE OF THIS LETTER OF AGENCY. I certify that I have read and understand this Letter of Agency including the information on the reverse side. I further certify that I am at least eighteen years of age, and that I am authorized to change telephone numbers for service to the telephone numbers listed above.

CUSTOMER SIGNATURE John Wood DATE 01-26-98

REPRESENTATIVE ID NUMBER

593245073

I hereby certify that my sponsor support me in choosing the PrecederPlus customer and that the signature above is that of the Customer.

REPRESENTATIVE SIGNATURE John T. Payton DATE

EXCEL REPRESENTATIVE LAST NAME

WESTSIDE FAMILY WORSHIP

TELEPHONE NUMBER

4076540883

FORM 01401 10/97



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ATTACHMENT A

Printed by Ellen Plendl 2/05/98 4:37pm

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-----  
From: Ellen Plendl  
To: MAIL @ SMTP{jon\_wood@juno.com}  
Subject: Slamming Complaint  
-----

-----NOTE-----  
Mr. Jon C. Wood

Dear Mr. Wood:

Thank you for your correspondence concerning Excel.

We will look into the matter you outlined, advise the company to contact you to resolve the problem, and require the company to provide the Florida Public Service Commission with a letter outlining its resolution of the matter.

If you have any questions, I can be reached at 1-800-342-3552 or at eplendl@psc.state.fl.us.

Sincerely,

Ellen Plendl  
Regulatory Specialist  
Division of Consumer Affairs  
-----

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ATTACHMENT A

Printed by Ellen Plendl

2/05/98

2:35pm

203 319

From: LRASBERRY @ SMTP {LRASBERRY@PSC.STATE.FL.US}  
To: Jennifer Erdman-Bridges, LRASBERRY @ PSC, Pamela Johnson  
Subject: fwd: Slamming Complaint Form

-----NOTE-----2/04/98-10:33pm-----

Return-Path: <mdmatney@2kweb.com>

Received: from 2kweb.com (192.41.9.197)  
by mail.psc.state.fl.us (Connect2-SMTP 4.30A.1000128);  
Wed, 4 Feb 1998 22:36:25 -0500

Received: (mdmatney@localhost) by 2kweb.com (8.8.5) id UAA13602; Wed, 4 Feb 1998  
20:33:45 -0700 (MST)

Date: Wed, 4 Feb 1998 20:33:45 -0700 (MST)

Message-Id: <199802050333.UAA13602@2kweb.com>

From: LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMANB@PSC.STATE.FL.US (Consumer Slamming Complaint)

Reply-To: LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMANB@PSC.STATE.FL.US (Consumer Slamming Complaint)

To: LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMANB@PSC.STATE.FL.US

Subject: Slamming Complaint Form

Below is the result of your feedback form. It was submitted by Consumer Slamming  
Complaint  
(LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMANB@PSC.STATE.FL.US on Wed  
Feb 4 20:33:44 MST 1998

-----  
Complaint:

LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMANB@PSC.STATE.FL.US

return-email:

LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMANB@PSC.STATE.FL.US

return-name: Consumer Slamming Complaint

subject: Slamming Complaint Form

Accountholder: Jon C. Wood

Submitted by: Jon C. Wood

Service Address: 151 W. George Avenue

City, State and Zip Code: Maitland, FL 32751

County: Orange

Mailing Address:

Mailing City, State and Zip Code:

E-mail Address: jon\_wood@juno.com

Telephone Number at the Service Address: (407) 645-2895

Daytime Contact Telephone Number: (407) 645-2895

Local Telephone Company: Sprint

Interstate/Long Distance Telephone Company: AT&T

Intrastate/Local Toll Telephone Company: AT&T

Interstate/Long Distance: Yes

Intrastate/Local Toll: Yes

Company that Switched the Service Without Authorization: Excel

Contacted Preferred Carrier: YES

Contacted company in dispute: NO

name of contact:

Received bill from new carrier: NO

comments:

-----  
From: Jennifer=Erdm=2/05/98=1:11pm-----

Fwd to: Ellen Plendl

.....  
Ellen, please handle. Thanks!

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ATTACHMENT A

Printed by Ellen Plendl 2/05/98 2:35pm

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-----  
From: Rick Moses  
Tr Jennifer Erdman-Bridges  
Subject: fwd: Ms. Mary Cardinel a  
-----

-----NOTE-----2/05/98--9:38am--  
Ms. Mary Cardinel at 813/960-0479 just called an her telephone has excessive static and does not ring. Several GTE employees have been at her residence, but the problem is still not fixed. Please have someone address this with GTE. She cannot be reached at the above number because it will not receive incoming calls.

thanks.

Fwd-by: Jennifer-Erdm-2/05/98--1:07pm--  
Fwd to: Ellen Plendl  
CC: Rick Moses

.....  
Ellen, please see above and handle this case. Thanks!  
-----

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ATTACHMENT B

Name PETER JOHN Company EXCEL TELE UNICATIONS, INC.  
Address NANCY PETERSEN CALLED Attn. JIM BUTLER 182268  
1131 CIRCLE DRIVE Consumer's Telephone # (941)-676-2746  
City/Zip LAKE WALES 33853 County POLK Can Be Reached (941)-676-1493  
Account Number \_\_\_\_\_ Note ifp  
Caller's Name \_\_\_\_\_ Informal Conf. N Outreach \_\_\_\_\_

Request No. 182268I  
By DBM Time 4:38 PM Date 08/06/1997  
To CO Time FGAX Date 08/06/1997  
Type S Form Phone  
Category \_\_\_\_\_  
Infraction LS-13C  
Closed by MEP Date 03/24/1998  
Reply Received T

The customer said that her service was switched to Excel from AT&T without authorization. The customer said she would like her calls rerated and credit for any switching fees. Please, provide proof of authorization (LOA/TAPE), follow up with the customer, send the PSC a detailed written report, and respond by the date below.  
Inquiry taken by JOHN PLESCOW.

08/21/97 Received report with explanation, LOA and \$14.57 credit. A letter was sent to the customer.

03/24/98 Closed.

CONSUMER REQUEST

FLORIDA PUBLIC  
SERVICE  
COMMISSION

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL. 32399-0850  
850-413-6100

PLEASE RETURN THIS FORM  
WITH REPORT OF ACTION TO:

DUE: 08/22/1997

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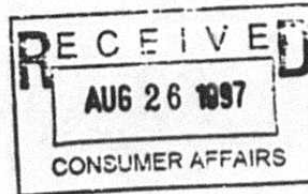
**ATTACHMENT B**



August 22, 1997

*On line with the future*

Doug Martin  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850



RE: Mrs. John Petersen  
Request No. 1822681

Dear Mr. Martin:

On August 6, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Mrs. John Petersen.

In her complaint, Mrs. Petersen states her long distance service was switched from AT&T to Excel without her prior consent or authorization. Mrs. Petersen seeks reimbursement for all service fees and switching fees assessed by Excel and GTE as a result of the change in carrier. In addition, she requests that the direct-dialed charges billed by Excel be adjusted to reflect the rates of her carrier of choice, AT&T.

Excel's records indicate that service was established for Mrs. Nancy Petersen on July 15, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (941) 676-2746. The account was subsequently canceled from our database on July 31, 1997, after we received an electronic transmission from GTE indicating that the long distance carrier for (941) 676-2746 had changed.

Excel Telecommunications is a long distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.



ORDER NO. PSC-98-1000-SC-TI  
DOCKET NO. 971490-TI  
PAGE 17

**ATTACHMENT B**

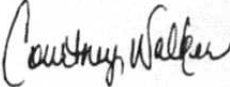
Our records further indicate that a credit adjustment of \$4.50 was issued to Mrs. Petersen's canceled account on July 31, 1997, for services fees assessed by Excel during the month of July. The credit adjustment should appear on her local telephone invoice within 60 days.

In an effort to resolve this matter, an additional credit adjustment of \$10.07 was issued to Mrs. Petersen's account on August 13, 1997. This figure includes the switching fees assessed by GTE as well as the direct-dialed charges billed by Excel from July 20, 1997, through July 26, 1997. The adjustment should appear on Mrs. Petersen's GTE invoice within 60 days.

I contacted Mrs. Petersen on August 13, 1997, to advise her of my findings and inform her of the credit adjustments. I assured Mrs. Petersen that it is never Excel's intention to establish service without the appropriate consent or authorization, and I apologized for any inconvenience this matter has caused. She states this resolution is satisfactory.

If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Mrs. John Petersen  
1131 Circle Drive  
Lake Wales, FL 33853

REF CONTROL NO. 0896-1601 119528200

YOU MUST COMPLETE A SEPARATE  
SERVICE REQUEST FORM FOR EACH  
TELEPHONE BILL RECEIVED



### SERVICE REQUEST FORM (SRF)

1 PLEASE / CHECK TO INDICATE CUSTOMER STATUS  NEW CUSTOMER  EXISTING CUSTOMER

PLEASE FILL OUT BOXED AREA NEATLY MAKING SURE NOT TO WRITE OUTSIDE OF BOXES AS SHOWN

2 Please print customer's information exactly as it appears on their phone bill.

BILLING TELEPHONE NUMBER (REQUIRED)

9416762746

SECOND TELEPHONE LINE ON SAME BILL

ABC5551342

THIRD TELEPHONE LINE ON SAME BILL

TO INSURE PROPER PROCESSING OF YOUR INFORMATION COMPLETE AS SHOWN IN BLACK OR BLUE INK AND PRINT IN CAPITAL LETTERS

3 LAST NAME

Petersen

FIRST NAME

Nancy

ADDRESS LINE 1

1131 Circle Dr

ADDRESS LINE 2

CITY

Lake Wales

STATE

FL

ZIP CODE

33853

4 SOCIAL SECURITY NUMBER

987-92-3822

5  INTRALATA SERVICE

PLEASE INITIAL THIS BOX TO SELECT INTRALATA SERVICE  
I understand I will be preauthorized to Excel for my toll calls made within my local access  
transport area (local calls). I agree when my participation has approved intralata companies  
I understand an local company can assess a service charge for each line changed.

#### SELECT YOUR SERVICE

**Excel Simply One™** I understand I will be enrolled in the Simply One calling program designed especially for residential customers. All calls will be charged a per-minute flat-rate based upon time of day and originating and terminating call location. I understand I will be charged a \$1.00 monthly service fee.

**ExcelPlus II™** I understand I will be enrolled in the ExcelPlus II calling program designed especially for residential customers who make the majority of their calls to other Excel residential and small business customers. I will automatically receive a 30% discount off Excel's standard rates on all domestic long distance calls to non-Excel customers. I will also receive a 50% discount on all calls to Excel residential and small business customers. I will be charged a \$1.00 monthly service fee.

**PremierPlus II™** I understand I will be enrolled in the PremierPlus II calling program designed especially for personal residential or small business customers with \$75 or less of long distance usage per month. I will automatically receive a 30% discount off Excel's standard rates on all domestic long distance calls to non-Excel customers. I will also receive a 50% discount on all calls to Excel residential and small business customers. All calls will be discount-priced, flat-rate, per-minute calls and there is a seasonal \$3.00 monthly

**Excel WorldNet™** Excel WorldNet calling program is especially designed for international calling needs. I will automatically receive the WorldNet discounted, direct-dialed international rates. There is no set-up charge. I pay a \$3 monthly service fee.

**My 800™** There is no set-up charge. I pay only \$3.50 a month plus long distance charges. This number will ring at and be billed to the Billing Telephone Number I have indicated.

**Calling Cards**  
I request \_\_\_\_\_ calling cards (max 2)

**Account Codes** (Available only with PremierPlus II)  
Check number of digits desired  2  3  4  
\$10.00 monthly fee

#### REQUEST FOR SERVICE

This Letter of Agency shall be in effect upon its receipt and acceptance by Excel Telecommunications, Inc. at its Corporate Office in Dallas, Texas. I authorize you to inform my local telephone company that I have selected Excel Telecommunications, Inc. to be my primary long distance service for 3 equal service dialing (including intralata if indicated above). I understand that I may designate only one long distance service. I understand my local telephone company can assess a service charge for each line changed. This Letter of Agency shall remain in effect until I revoke the same in writing. I certify that I am at least 18 years of age and that I have the proper authority to sign this Letter of Agency.

CUSTOMER SIGNATURE Nancy Petersen DATE 7-10-97

8 REPRESENTATIVE ID NUMBER

554119143

I hereby certify that my sponsor assisted me in obtaining this Fast Start customer.

REPRESENTATIVE SIGNATURE

DATE

EXCEL REPRESENTATIVE LAST NAME FIRST NAME TELEPHONE NUMBER  
Jackson Cindy 9169291325

ORDER NO. PSC-98-1000-SC-TI  
DOCKET NO. 971490-TI  
PAGE 19

**ATTACHMENT B**

**STATE OF FLORIDA**



**PUBLIC SERVICE COMMISSION**

2540 Shumard Oak Boulevard  
CAPITAL CIRCLE OFFICE CENTER  
TALLAHASSEE, FLORIDA 32399-0850

**FACSIMILE TRANSMITTAL COVER SHEET**

DATE: 4-13-98 TIME SUBMITTED: 2:30 p. m.

TO: Nancy TITLE: \_\_\_\_\_

OFFICE/BUSINESS: \_\_\_\_\_

TELEPHONE NO: ( ) \_\_\_\_\_ FAX NO: (941) 676-6844

FROM: \_\_\_\_\_

OFFICE/DIVISION: \_\_\_\_\_

TELEPHONE NO: (850) \_\_\_\_\_ FAX NO: (850) \_\_\_\_\_

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NUMBER OF PAGES, INCLUDING THIS COVER SHEET: \_\_\_\_\_

ORDER NO. PSC-98-1000-SC-TI

DOCKET NO. 971490-TI

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ATTACHMENT B

FL PUBLIC SERVICE COMM Fax:8505759366

**\*\* Transmit Conf. Report \*\***

Apr 13 '98 14:22

FL PUBLIC SERVICE COMM—> 9416766844	
No.	0012
Mode	NORMAL
Time	1'15"
Pages	2 Page(s)
Result	O K

Name SMITH, ITY Company EXCEL TELE UNICATIONS, INC.  
Address 2740 N.E. 15 AVE. Attn. JOEL BALLEW 1942881  
City/Zip FT. LAUDERDALE 33334 County BRO Consumer's Telephone # (954)-565-5923  
Account Number \_\_\_\_\_ Can Be Reached \_\_\_\_\_  
Caller's Name \_\_\_\_\_ Note \_\_\_\_\_  
Informal Conf. N Outreach CUSTOMER'S BILL

Request No. 1942881  
By SRG Time 1:48 PM Date 11/17/1997  
To CO Time FAX Date 11/17/1997  
Type S Form Phone  
Category \_\_\_\_\_  
Infraction LS-13C  
Closed by SRG Date 12/19/1997  
Reply Received I

ATTACHMENT C

Customer says the following:

Her long distance service was switched without her knowledge.

The customer's PIC is AT&T.

Please provide proof of authorization, including an LOA/TAPE.

12/04/97 Report received. The company will be issuing the customer a credit of \$3.19 for the charges incurred. The information provided is not the signature of the customer.

12/9/97 Report received. This report is the same as the previous one provided by the company. I will contact the customer with the results of this investigation.

## CONSUMER REQUEST

## FLORIDA PUBLIC SERVICE COMMISSION

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL. 32399-0850  
850-413-6100

PLEASE RETURN THIS FORM  
WITH REPORT OF ACTION TO:

DUE: 12/04/1997

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DOCKET NO. 971490-TI  
PAGE 21

ORDER NO. PSC-98-1000-SC-TI  
DOCKET NO. 971490-TI  
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ATTACHMENT C



December 4, 1997

*On line with the future*

Sam Gonzalez  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850



RE: Betty Smith  
Request No. 1942881

Dear Mr. Gonzalez:

On November 17, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Ms. Betty Smith.

In her complaint, Ms. Smith states that her long distance service was switched from AT&T to Excel without her prior consent or authorization.

Excel's records indicate that an account was established for Ms. Smith on October 10, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (954) 565-5923. The account was canceled from our database on November 17, 1997, at Ms. Smith's request.

Excel Telecommunications is a long-distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.

Our records further indicate that a credit adjustment of \$10.00 was issued to Ms. Smith's canceled account on November 17, 1997. The credit adjustment reimburses Ms. Smith for the switching fees assessed by Bell South and should appear on her local telephone invoice within 60 days.

In an effort to resolve this matter, the following credit adjustments were issued to Ms. Smith's canceled account on December 1, 1997:

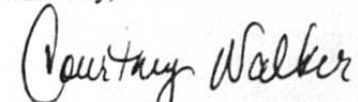
- \$1.03 -- service fees assessed by Excel in October 1997;
- \$2.16 -- total amount of the Excel charges incurred as a result of the change in carrier, including the direct-dialed calls placed from October 18, 1997, through October 29, 1997.

The credit adjustments totaling \$3.19 should appear on Ms. Smith's Bell South invoice within 60 days.

I contacted Ms. Smith on December 1, 1997, to advise her of my findings and inform her of the credit adjustments. I assured Ms. Smith that it is never Excel's intention to establish service without the appropriate consent or authorization, and I apologized for any inconvenience this matter may have caused. She states this resolution is satisfactory.

If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Ms. Betty Smith  
2740 N.E. 15 Ave.  
Ft. Lauderdale, FL 33334

ORDER NO. PSC-98-1000-SC-TI

DOCKET NO. 971490-TI

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ATTACHMENT C

DEC -04 '97 (THU) 14:06

TEL:972 863 8721

P. 004



*On line with the future*

December 4, 1997

Sam Gonzalez  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Betty Smith  
Request No. 194288I

Dear Mr. Gonzalez:

On November 17, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Ms. Betty Smith.

In her complaint, Ms. Smith states that her long distance service was switched from AT&T to Excel without her prior consent or authorization.

Excel's records indicate that an account was established for Ms. Smith on October 10, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (954) 565-5923. The account was canceled from our database on November 17, 1997, at Ms. Smith's request.

Excel Telecommunications is a long-distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

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DEC -04 97 11:00

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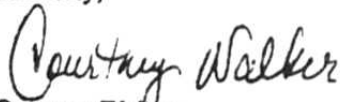
- \$1.03 – service fees assessed by Excel in October 1997;
- \$2.16 – total amount of the Excel charges incurred as a result of the change in carrier, including the direct-dialed calls placed from October 18, 1997, through October 29, 1997.

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If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Ms. Betty Smith  
2740 N.E. 15 Ave.  
Ft. Lauderdale, FL 33334

DEC -04 5 (THU) 14:0\*

TEL: 972 865 8721

P 006

REF CONTROL NO. 0896-1601 137777704

OCT 10 1997 T E

YOU MUST COMPLETE A SEPARATE SERVICE REQUEST FORM FOR EACH TELEPHONE BILL RECEIVED



SERVICE REQUEST FORM (SRF)

1 PLEASE / CHECK TO INDICATE CUSTOMER STATUS NEW CUSTOMER EXISTING CUSTOMER

2 Please print customer's information exactly as it appears on their phone bill.

BILLING TELEPHONE NUMBER (REQUIRED)

9545655923

SECOND TELEPHONE LINE ON SAME BILL

THIRD TELEPHONE LINE ON SAME BILL

PLEASE FILL OUT BOXED AREA NEATLY MAKING SURE NOT TO WRITE OUTSIDE OF BOXES AS SHOWN

ABC5551342

TO INSURE PROPER PROCESSING OF YOUR INFORMATION COMPLETE AS SHOWN IN BLACK OR BLUE INK AND PRINT IN CAPITAL LETTERS

3 LAST NAME FIRST NAME

SMITH

BETTY

ADDRESS LINE 1

2740 NE 15TH AVE

ADDRESS LINE 2

FT LAUDERDALE

CITY

STATE

ZIP CODE

FT LAUDERDALE

FL 33334

4 SOCIAL SECURITY NUMBER

Refused

5 INTRALATA SERVICE

PLEASE SERIAL DIAL BOX TO SELECT INTRALATA SERVICE

6 SELECT YOUR SERVICE

Excels Simply One... I understand I will be enrolled in the Simply One calling program...

ExcelsPlus... I understand I will be enrolled in the ExcelsPlus II calling program...

PreemierPlus... I understand I will be enrolled in the PreemierPlus II calling program...

Excels WorldNet... Excels WorldNet calling program is especially designed for international calling needs...

My 800... There is no set-up charge I pay only \$1.50 a month plus long distance charges...

Calling Cards... I request calling cards (first 2)

Account Codes... Check number of digits desired 2 3 4 \$10.00 monthly fee

REQUEST FOR SERVICE

This Letter of Agency shall be in effect upon its receipt and acceptance by the Telephone Company...

CUSTOMER SIGNATURE Betty Smith

DATE 10/5/97

REPRESENTATIVE ID NUMBER

554478610

I hereby certify that my sponsor granted me an authority that I am a customer

REPRESENTATIVE SIGNATURE Lisa Markow

DATE 10/5/97

EXCEL REPRESENTATIVE LAST NAME

MARKLOWE

FIRST NAME

LISA

TELEPHONE NUMBER

16503558816