

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Valu-Tel, Inc. and Public Communications, Inc. for violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required.

DOCKET NO. 980606-TI
ORDER NO. PSC-98-1218-AS-TI
ISSUED: September 15, 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 OFFER OF SETTLEMENT

BY THE COMMISSION:

On April 24, 1998, we received a consumer complaint regarding possible deceptive practices involving three companies: Valu-Tel, Inc. (VTI), Public Communications, Inc. (PCI); and Telecommunications Service Center, Inc. (TSCI). The complaint stemmed from the use of an entry form for a contest which automatically enrolled the contestant into an 800 service. We believe that few, if any, consumers entering the contest realized that they were obligating themselves to a \$4.95 activation fee, a \$4.95 recurring monthly charge for the 800 service, plus \$.25 per minute of use, all billed on their local exchange telephone bill.

At the time we began our investigation, neither VTI nor PCI were certificated through this Commission or registered corporations in the State of Florida. VTI and PCI appeared to be offering the 800 telephone service without a certificate, and Florida consumers have entered the "contest" and subjected themselves to billing by TSCI on local exchange company bills. The activities of VTI, PCI and TSCI appeared to constitute "cramming" of unauthorized charges on local phone bills. TSCI's participation

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in this matter is being processed separately in Docket No. 980605-TI.

Although the sweepstakes forms were worded as though VTI/PCI were providing service, VTI and PCI have asserted that they were merely marketers and that actual telecommunications services were provided by TSCI. The owner of VTI and PCI met with Commission staff and asserted that it was never his or his companies' intent to offer telecommunications service. Thereafter, VTI and PCI submitted an offer of settlement which is attached and incorporated herein as Attachment A. In the offer VTI and PCI agreed to the following:

- VTI and PCI will act as marketing companies only. All offers on LOA's will clearly show the carrier as TSCI.
- Both companies have registered with the Florida Secretary of State.
- VTI and PCI will discontinue the use of a "Sweepstakes" promotion now and in the future.
- VTI and PCI will make a contribution in the amount of \$5,000 to the General Revenue Fund of the State of Florida, with no admission of liability or wrongdoing.

We find the terms of the settlement to be reasonable. We applaud VTI and PCI's cessation of the use of sweepstakes in their marketing. We also note that both companies have now registered as Florida corporations. Accordingly, the June 29, 1998, offer of settlement is hereby approved.

This docket shall remain open pending the remittance of the \$5,000 voluntary contribution, which shall be remitted within five business days after issuance of this Order. Upon remittance, the \$5,000 settlement will be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, and this docket will be closed administratively.

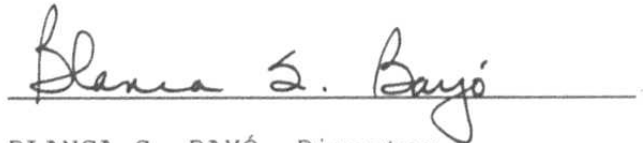
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Offer of Settlement dated June 29, 1998, by Valu-Tel, Inc., and Public Communications, Inc., is hereby approved. It is further

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ORDERED that this docket shall remain open pending the remittance of the \$5,000 voluntary contribution. The voluntary contribution shall be remitted within five business days after issuance of this Order. Upon remittance, the \$5,000 settlement will be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, and this docket will be closed administratively.

By ORDER of the Florida Public Service Commission this 15th day of September, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)
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.

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

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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.

VALU-TEL INC.

June 29, 1998

Catherine Bedall
Senior Attorney
State of Florida, Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Ms. Bedall,

The following is a summary of our meeting on June 24, 1998. I will briefly explain these and also request that the Commission accept my proposal that \$5,000 be paid as a result of an error of judgment on my part, as President, of the companies I manage.


I am President of two small marketing companies, both located at the same address. Valu-Tel, Inc. (VTI) was incorporated in Georgia in 1993 and Public Communications, Inc. (PCI) in 1998. Both of these companies are marketing companies only and have no switching equipment or telecommunications tariffs. I made an error in listing Valu-Tel, Inc. and Public Communications, Inc. on the order forms used for customers to order residential 1-800 service. Both companies, PCI and VTI, utilize Telecommunications Service Center, Inc., (TSCI) for billing and long distance services. TSCI is a long distance carrier with tariffs and switching equipment located in Tampa, Florida.

The second action taken was to discontinue the use of "sweepstakes" with the marketing of the residential 1-800 service. This was done on June 18, 1998. This was the last day both companies accepted new orders for the residential 1-800 service we market. Neither company will utilize a "sweepstakes promotion" in the future in conjunction with the order form process.

The third issue which has now been corrected and was actually started prior to my notification from you is that both companies are now registered with the Secretary of State to do business in Florida using the names, Georgia Public Communications, Inc. and Georgia Valu-Tel, Inc.

I sincerely apologize for my errors and hope that my request for a fine of \$5,000 is accepted.

Very truly yours,


Myron Newman, President
Valu-Tel, Inc.
Public Communications, Inc.