

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Total National Telecommunications, Inc. d/b/a Total World Telecom ("TWT") for violation of Rules 25-4.043, F.A.C., Response to Commission Staff Inquiries; 25-4.0161, F.A.C., Regulatory Assessment Fees; 25-24.480(2)(a)(b), F.A.C., Records and Reports; Rules Incorporated; and 25-24.935, F.A.C., Discontinuance of Service.

DOCKET NO. 980739-TI
ORDER NO. PSC-98-1264-SC-TI
ISSUED: September 23, 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:

CASE BACKGROUND

Total National Telecommunications, Inc., d/b/a Total World Telecom (TWT) is an interexchange telecommunications carrier and holder of Certificate Number 3600, which was issued December 23, 1994.

On May 20, 1998, we received a complaint forwarded to us by the Office of the Attorney General. The complaint was from a consumer regarding a prepaid calling card that the consumer had purchased for \$20. The consumer stated that when he attempted to use the card, he discovered that the access and customer service toll-free numbers had been disconnected. Our letter of inquiry on the complaint was returned by the U. S. Postal Service stamped

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"undeliverable as addressed" and "forwarding order expired." Our investigation confirmed that the telephone number listed in the Commission's Master Commission Directory (MCD) had been disconnected, and that the two toll-free numbers listed on the calling card were no longer in service. For these reasons, we initiated a show cause action against TWT.

APPARENT VIOLATIONS

Failure to Respond to Commission Inquiries

Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, states:

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.

On May 26, 1998, Commission staff wrote a letter to TWT and requested a written response to a consumer complaint by June 10, 1998. The letter was returned by the United States Postal Service on June 3, 1998, stamped "undeliverable as addressed" and "forwarding order expired." On June 5, 1998, Commission staff called the telephone number listed in MCD and received a recording advising the number had been disconnected. Therefore, we believe it appropriate to order TWT to show cause in writing within 21 days of the issuance of this Order, why it should not be fined \$1,500 or have its certificate canceled for apparent violation of Rule 25-4.043, Florida Administrative Code.

Failure to Pay Statutory Penalties and Interest

Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, requires the payment of regulatory assessment fees by January 30 of the subsequent year, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts. Our investigation shows that although TWT has paid its regulatory assessment fees, the payments were paid after January 30 for the years 1995, 1996, and 1997. Therefore, the company owes the Commission for the accrued statutory penalties and interest for late payments over the three previous years. We believe the

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company has failed to comply with Rule 25-4.0161, Florida Administrative Code. Therefore, we find it appropriate to order TWT to show cause in writing within 21 days of the issuance of this Order, why it should not be fined \$500 or have its Certificate Number 3600 canceled for apparent violations of Rule 25-4.0161, Florida Administrative Code.

Failure to Provide Notice of Address and Phone Number Changes

Rule 25-24.480(2)(a) and (b), Florida Administrative Code, provides that each company shall file the following information with the Divisions of Communications and Records and Reporting within 10 days after the changes occur: the street address of the certificate holder; and the name; title; and phone number of the individual responsible for contact with the Commission. It has been well over 10 days and this Commission has not been informed of the provider's correct mailing address, phone number, or liaison information. Therefore, we find it appropriate to order TWT to show cause in writing within 21 days of the issuance of this Order why it should not be fined \$1,000 or have its certificate number 3600 canceled for violation of reporting requirements.

Improper Discontinuance of Service

Rule 25-24.935, Florida Administrative Code, Discontinuance of Service, states:

A company shall be responsible for ensuring, either through its contracts with its network provider, distributors, or marketing agents, or other means, that end user purchased cards remain usable in accord with Rule 25-24.920(10).

The consumer complaint we received stated that the consumer had purchased a prepaid calling card for \$20 and was unable to use it because the toll-free numbers for access and customer service had been disconnected. On June 3, 1998, our letter of inquiry to TWT concerning this complaint was returned by the United States Postal Service and marked "undeliverable as addressed" and "forwarding order expired." Our staff called the telephone number listed in MCD records and the two toll-free numbers listed on the prepaid calling card. All phone numbers provided to the Commission had been disconnected. Directory Assistance advised there was not a listing for TWT. Further, because Commission staff has been

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unable to locate or contact TWT and based on the consumer's complaint that he could not use his prepaid calling card, it appears that TWT has made no provision for outstanding cards. Therefore, we find it appropriate to order TWT to show cause in writing within 21 days of the issuance of this Order why it should not be fined \$1,500 or have its Certificate Number 3600 canceled for violation of Rule 25-24.935, Florida Administrative Code.

TWT shall have 21 days from the issuance of this Order to respond in writing why it should not be fined in the amounts set forth in the body of this Order or have its certificate canceled. Any fines collected for the apparent rule violations 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. If TWT timely responds to this Order, this docket shall remain open pending resolution of the show cause proceeding. If TWT does not respond to the Commission's Order to Show Cause, the fines shall be deemed assessed. If TWT fails to respond to the Order to Show Cause, the fines are not received within five business days after the expiration of the response period, and if TWT fails to provide staff with the information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code, TWT's certificate shall be canceled and this docket closed administratively.

Based on the foregoing, it is

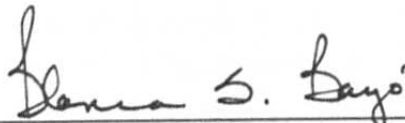
ORDERED by the Florida Public Service Commission that Total National Telecommunications, Inc. d/b/a Total World Telecom, shall show cause in writing within 21 days of the issuance of this Order why it should not be fined a total amount of \$4,500 for violation of Rules 25-4.043, 25-4.0161, 25-24.480(2)(a)(b) and 25-24.935, Florida Administrative Code, or have its certificate canceled. It is further

ORDERED that failure to respond to this Order to Show Cause in the manner and by the date set forth in the "Notice of Further Proceedings or Judicial Review," attached hereto, shall constitute an admission of the violations described in the body of this Order, waiver of right to a hearing, and will result in the automatic assessment of the appropriate fine and cancellation of certificate. It is further

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ORDERED that in the event Total National Telecommunications, Inc. d/b/a Total World Telecom fails to respond to this Order to Show Cause as prescribed herein, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 23rd day of September, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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 this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response 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 October 14, 1998.

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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 and a default pursuant to Rule 28-106.111(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.