

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation  
of Christian Telecom Network,  
LLC for apparent violation of  
Rule 25-24.470, F.A.C.,  
Certificate of Public  
Convenience and Necessity  
Required, and Rule 25-4.043,  
F.A.C., Response to Commission  
Staff Inquiries.

DOCKET NO. 020668-TI  
ORDER NO. PSC-02-1151-PAA-TI  
ISSUED: August 23, 2002

The following Commissioners participated in the disposition of  
this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION  
ORDER IMPOSING PENALTIES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service  
Commission that the action discussed herein is preliminary in  
nature and will become final unless a person whose interests are  
substantially affected files a petition for a formal proceeding,  
pursuant to Rule 25-22.029, Florida Administrative Code.

I. CASE BACKGROUND

On October 10, 2001, we received a complaint from a Florida  
customer regarding an unauthorized switch of his long distance  
provider from Sprint to Qwest. The customer's local phone bill  
indicated that his service provider was Qwest. The customer also  
reported that he received a separate bill for long distance service  
from Christian Telecom Network, LLC (CTN). The CTN bill indicated

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that carrier services were provided by "WorldTeq, Qwest." Upon our inquiry, Qwest informed us that the complaint should be addressed to WorldTeq Corporation (WorldTeq).

Our staff sent correspondence to both CTN and WorldTeq. On January 15, 2002, our staff sent a certified letter via U.S. Mail to CTN requesting a reply to the customer's complaint and also informed CTN of its apparent requirement to obtain an interexchange telecommunications company (IXC) certificate from this Commission. This letter was returned unopened. A statement stamped on the envelope indicated that the forwarding order had expired. On April 16, 2002, our staff sent a facsimile to WorldTeq requesting that the company review the customer's complaint and provide a written reply to this Commission by May 7, 2002.

The response from WorldTeq was received on May 1, 2002. WorldTeq indicated that the customer had a contract with CTN, a WorldTeq reseller. WorldTeq's response included a copy of the letter of agency provided by CTN to WorldTeq, which listed the contact information for CTN. Mr. Carl Zimmerman, with CTN, was contacted and he requested that he be sent a copy of the complaint and WorldTeq's May 1 correspondence. A copy of our January 15, 2002 letter to CTN, the customer's complaint, and WorldTeq's correspondence were sent to Mr. Zimmerman on May 2, 2002. At this time, our staff also requested that CTN submit to us its application for a certificate by May 31, 2002. A response to the complaint was due May 17, 2002. Mr. Zimmerman neither responded to the complaint nor submitted an IXC application, hence this docket was opened to address CTN's apparent violation of Rule Nos. 25-4.470 and 25-4.043, Florida Administrative Code.

## II. ANALYSIS

Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, states in pertinent part:

- (1) No person shall provide intrastate interexchange telephone service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may deposits or payment

for services be collected, until the effective date of a certificate, if granted. . . .

Information provided by Qwest and WorldTeq indicates that CTN is a reseller. In addition, the LOA provided by WorldTeq indicates that CTN has apparently been providing intrastate IXC telephone service in Florida as early as August 11, 1997. Rule 24-4.003, Florida Administrative Code, Definitions, defines an IXC to include a company who collects fees directly from subscribers, or a company who bills for IXC services in its own name. The bill provided with the customer's complaint clearly shows that CTN is billing for IXC services in its own name. Thus, CTN is required to obtain a certificate from this Commission.

In addition, 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.

The company was notified of the complaint by telephone on May 1, 2002. The May 2, 2002 facsimile, containing the customer's complaint and our staff's letter of January 15, 2002, was successfully transmitted. No reply was received by the due date of May 17, 2002.

CTN's apparent violation of Rule Nos. 25-24.470 and 25-4.043, Florida Administrative Code, is "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., 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, this 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 CTN's conduct at issue here, would meet the standard for a "willful violation."

By 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 per day for each offense, 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. 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).

Based on the above, we hereby impose a \$25,000 penalty on CTN for failure to comply with Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. We further hereby impose a \$10,000 penalty on Christian Telecom Network, LLC for failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. The penalties should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the payment of the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Office of the Comptroller. Further, if Christian Telecom Network, LLC, fails to timely protest the Commission's Order, or fails to obtain an IXC Certificate of Public Convenience and Necessity, upon issuance of the Consummating Order, the company will be required to immediately cease and desist providing interexchange telecommunications services in Florida until it obtains an IXC Certificate of Convenience and Necessity.

The Florida Public Service Commission is vested with jurisdiction over these matters pursuant to Sections 364.183, 364.285, and 364.337, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Christian Telecom Network, LLC is hereby penalized in the amount of \$25,000 for failure to comply with Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. It is further

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ORDERED that Christian Telecom Network, LLC is hereby penalized in the amount of \$10,000 for failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. It is further

ORDERED that the provisions of this order be issued as a proposed agency action and shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if the penalties are not received within 14 calendar days after issuance of the Consummating Order, the amount shall be forwarded to the Office of the Comptroller for collection. It is further

ORDERED that if Christian Telecom Network, LLC, fails to timely protest the Commission's Order, or fails to obtain an IXC Certificate of Public Convenience and Necessity, upon issuance of the Consummating Order, the company will be required to immediately cease and desist providing interexchange telecommunications services in Florida until it obtains an IXC Certificate of Convenience and Necessity.

ORDERED that this docket be closed administratively upon either the receipt of the payment of the penalties, or upon referral of the penalties to the Office of the Comptroller for collection.

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By ORDER of the Florida Public Service Commission this 23rd  
day of August, 2002.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

LHD

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 that is available under Section 120.57, 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 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.

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The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 13, 2002.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.