

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation  
of CAT Communications  
International, Inc. for apparent  
violation of Rule 25-4.110(16),  
F.A.C., Customer Billing for  
Local Exchange  
Telecommunications Companies.

DOCKET NO. 020646-TX  
ORDER NO. PSC-02-1656-PAA-TX  
ISSUED: November 26, 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 ORDERING  
REMOVAL OF LOCAL SERVICE PROVIDER FREEZE

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.

CASE BACKGROUND

On October 15, 1999, CAT Communications International, Inc.  
(CCI) obtained Florida Public Service Commission alternative local  
exchange telecommunications company (ALEC) certificate number 7160.  
On May 30, 2002, Ms. Bridget Derr of Florida Telephone Services,  
LLC (FTS), filed a complaint on behalf of a prospective customer  
against CCI. Our staff reviewed the complaint which claimed that  
CCI placed a freeze on the customer's local service, apparently  
without the customer's authorization. Upon investigation, our staff

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found that this Commission had received 25 customer complaints against CCI regarding the local service freeze. On June 4, 2002, our staff sent a certified letter to CCI explaining the requirements of the Florida Administrative Code, Florida Statutes, and the FCC rules regarding preferred carrier freezes and outlining the actions that CCI needed to take to come into compliance with the Florida regulations. Ms. Bridget Derr, FTS, again requested assistance on June 6, 2002, regarding difficulties the company encountered in attempting to convert service for two additional prospective customers due to CCI's apparent unauthorized local service freezes.

On June 26, 2002, CCI responded to the June 4, 2002, letter with a description and a rationale for its policies regarding local service freezes. In its letter, CCI declined to remove the local service freezes from its active customers. Our staff communicated with CCI throughout July and August of 2002 via telephone and letter regarding the issue of unauthorized local service freezes. During this time, CCI submitted a proposed settlement letter with two subsequent amendments after these discussions.

On September 10, 2002, CCI sent a letter to Florida Telephone Services, LLC, with a courtesy copy to us, attempting to persuade FTS to work with CCI directly to resolve problems regarding local service freezes. On September 13, 2002, FTS responded to CCI, with a courtesy copy to us, explaining the problems that new FTS customers had reported to it while attempting to switch from CCI because of the apparent unauthorized local service freezes imposed by CCI. FTS denied that it advised its customers to contact this Commission to complain about CCI's apparent unauthorized local service freezes.

The Florida Public Service Commission is vested with jurisdiction over this matter pursuant to Sections 364.285, 364.337 and 364.603, Florida Statutes.

#### DISCUSSION

Section 364.603, Florida Statutes, Methodology for Changing Telecommunications Provider, states in part:

...provide for the notification to subscribers of the ability to freeze the subscriber's choice of carriers at no charge...

Rule 25-4.110(16), Florida Administrative Code, which implements the Section 364.603, Florida Statutes, identified above, states:

(16) Companies that bill for local service must provide notification with the customer's first bill or via letter, and annually thereafter that a PC Freeze is available. Existing customers must be notified annually that a PC Freeze is available.

Our staff has consistently interpreted Section 364.603, Florida Statutes, and Rule 25-4.110 (16), Florida Administrative Code, to mean that a preferred carrier (PC) freeze is the customers' option, not the service providers'. We concur with our staff's interpretation of Section 364.603 Florida Statutes and Rule 25-4.110 (16), Florida Administrative Code. As presented in the Case Background, we have received numerous complaints from customers and other certificated ALECs regarding CCI's practice of placing local service freezes on customer lines. Our staff notified CCI that their practice of placing a preferred carrier freeze on the customer's line without the customer's specific authorization or as a condition of service is contrary to Section 364.603, Florida Statutes, and Rule 25-4.110(16), Florida Administrative Code. We believe that CCI, by requiring a PC freeze as a condition of service, is operating in apparent violation of Rule 25-4.110 (16), Florida Administrative Code. As a result, when a competing local service provider places an order with the underlying local exchange company to acquire the customer, the order is rejected because there is a freeze on the line.

Based on the foregoing, we are requiring that CCI shall do the following to remedy its violation of Rule 25-4.110 (16), Florida Administrative Code:

1. Identify by telephone number all customer lines which have a local service freeze assigned;
2. Notify all customers who have requested service prior to August 1, 2002, that a local service provider freeze is on their account, and that the customer has the option of having the freeze removed at no cost. CCI will attach a postage paid

card to the letter and explain that the customer must sign and return the card in order to retain the local service provider freeze. Customer responses are due within 30 days from the date on the notification letter. A copy of this letter must be sent to staff and approved prior to its being sent to customers. The letter must also be mailed within 10 days of the Commission's decision;

3. Identify by telephone number all customer accounts opened prior to August 1, 2002, for which the card requesting the local service provider freeze has not been returned in order to remove the freeze on these accounts by December 15, 2002;
4. Submit local services requests (LSRs) to the appropriate underlying local exchange company to remove local service freezes at no cost to its customers who have not returned the cards requesting retention of the local service provider freeze.

If this Proposed Agency Action Order is not protested within 21 calendar days of issuance, this Order will become final upon issuance of the Consummating Order. CCI is required to submit a written report to us no later than 30 calendar days after the issuance of the Consummating Order. The company's written report should contain the following:

- a. A list of the telephone numbers on which the company had placed a local service freeze;
- b. A list of the purchase order numbers by telephone number, for which the company submitted an LSR to the underlying local exchange companies to remove the local service freezes based on the customer notification described above;
- c. A copy of the company's current letter of authorization; and
- d. A statement the CCI does not require a local service freeze as a condition of service.

We would like to note that CCI has complied with several of the provisions of this Order as of the date of issuance. The company has provided us with a copy of the letter which they are

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required to send to all their customers who have requested service prior to August 1, 2002. Our staff reviewed the letter and returned it to the company with comments and has been notified that the letter was mailed within 10 days of our decision. The letter requests that customers who wish to retain the local service provider freeze return the postage paid card sent with the letter by December 15, 2002. CCI shall not require a customer to accept a local service freeze as a condition for obtaining service.

Further, during the Agenda Conference, CCI's representative stated that as of August 1, 2002, CCI has changed its procedures and they now ask customers up-front if they would like a provider freeze. This procedure allows the customer to accept or decline a freeze, thereby, eliminating CCI's prior business practice of requiring a provider freeze as a condition for obtaining CCI's services. CCI should continue using this procedure whereby the customer has the option of accepting or rejecting the provider freeze.

If our staff determines that CCI has complied with the provisions of the this Order, then this docket should be closed administratively. If CCI fails to demonstrate that it has complied with the provisions of this Order, then ALEC certificate number 7160 shall be canceled, the company will be required to immediately cease and desist providing ALEC telecommunications services in Florida, and this docket will be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that CAT Communications International, Inc. shall identify by telephone number all customer lines which have a freeze assigned. It is further

ORDERED that CAT Communications International, Inc. shall notify by letter all customers who have requested service prior to August 1, 2002, that a local service provider freeze is on their account, and that the customer has the option of having the freeze removed at no cost. It is further

ORDERED that CAT Communications International, Inc. will attach a postage paid card to the letter and explain that the

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customer must sign and return the card prior to December 15, 2002, in order to retain the local service provider freeze on their account. It is further

ORDERED that a copy of this letter shall be sent to staff and approved prior to its being mailed to customers. It is further

ORDERED that the letter must be mailed within 10 days of our decision. It is further

ORDERED that CAT Communications International, Inc. shall identify all customer accounts prior to August 1, 2002, for which the card requesting the local service provider freeze has not been returned in order to remove the freeze on these accounts by December 15, 2002. It is further

ORDERED that CAT Communications International, Inc. shall submit local service requests to the appropriate local exchange company to remove the local service freezes at no cost to its customers who have not returned the cards requesting retention of the local service freeze, in order to have the freeze removed by December 15, 2002. It is further

ORDERED that CAT Communications International, Inc. shall not require a customer to accept a local service freeze as a condition of service. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, 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 Proposed Agency Action Order is not protested and a Consummating Order is issued, CAT Communications International, Inc. shall be required to submit a written report to this Commission demonstrating that it has complied with this Commission's Order. The report shall be in accordance with the

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requirements listed in the body of this Order and shall be submitted no later than 30 calendar days after the issuance of the Consummating Order. It is further

ORDERED that this docket shall remain open pending the filing of the report with this Commission by CAT Communications International, Inc. It is further

ORDERED that if our staff determines that CAT Communications International, Inc. has complied with this Order than this docket shall be closed administratively. It is further

ORDERED that if CAT Communications International, Inc. fails to demonstrate that it has complied with the provisions of this Order then Alternative Local Exchange Certificate No. 7160 shall be cancelled and this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 26th day of November, 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 )

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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 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.

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 December 17, 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.