

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Compliance investigation of FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA for apparent violation of Rule 25-4.110(16), F.A.C., Customer Billing for Local Exchange Telecommunications Companies.

DOCKET NO. 040129-TX
ORDER NO. PSC-04-0529-PAA-TX
ISSUED: May 24, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING SETTLEMENT PROPOSAL

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.

The Florida Public Service Commission has determined Section 364.603, Florida Statutes, and Rule 25-4.110 (16), Florida Administrative Code, to mean that a PC freeze is the customer's option, not the service provider's option. 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 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.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

After this docket was opened, FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA, (FLATEL) initiated negotiations with our staff to identify measures to resolve the apparent violations of Rule 25-4.110(16), Florida Administrative Code. As a result, FLATEL has proposed to notify each of its customers, in the form of a billing insert, that a local service freeze may be in place on their line. The customer will then have the option of keeping the freeze in place or having it removed from his or her line. The notice will be mailed to FLATEL's customers during the first billing cycle immediately following this Commission's approval of the company's proposed settlement. The customers will then have 30 days from the date of the notification to request that the freeze remain on their line or to request that the freeze be removed from his or her line. The customers may request to have the freeze remain on their lines by returning the insert signed and dated or by contacting FLATEL's customer service department. If the customer fails to return the insert signed and dated or contact customer service to request that the freeze remain on his or her line, then the freeze will automatically be removed. FLATEL will also submit to this Commission a detailed report within 60 days from the date of the notification summarizing the corrective measures taken by the company to resolve the issues of this docket.

FLATEL shall be required to notify all active customers no later than May 10, 2004, that a freeze may have been placed on the customer's line. No later than August 9, 2004, FLATEL will submit a detailed report to this Commission stating the actions that were taken to resolve the apparent violations. The report shall include the following information:

1. The number of notifications that were sent out to FLATEL's customers.
2. The number of customers who responded and requested to keep the freeze.
3. The number of customers who responded and requested to have the freeze removed.
4. The number of customers who did not respond.
5. The total number of customers who had the freezes removed from their lines and a list of the telephone numbers for each of those customers.
6. A copy of the company's current letter of authorization.

This Commission is vested with jurisdiction over this matter pursuant to Sections 364.285, 364.337, and 364.603, Florida Statutes. We find that the corrective measures proposed by FLATEL will adequately resolve the issues in this docket. The report FLATEL proposes to submit to this Commission by August 9, 2004, will provide our staff with the necessary data needed to verify that the company has complied with the terms and conditions of its settlement proposal.

This Order will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by this Commission's decision files a protest within 21

days of the issuance of the Proposed Agency Action Order. If this Commission's Order is not protested, FLATEL will have until August 9, 2004, to submit a written report to our staff demonstrating that it has complied with the provisions of its settlement proposal. If our staff determines that FLATEL has complied with the provisions of this Commission's Order, then this docket will be closed administratively. If FLATEL fails to demonstrate that it has complied with the provisions of this Commission's Order, then this docket shall remain open pending further proceedings before this Commission.

It is therefore,

ORDERED by the Florida Public Service Commission that the settlement proposed by FLATEL, Inc. d/b/a Florida Telephone Company d/b/a Oscatel d/b/a Telephone USA is hereby accepted. It is further

ORDERED that FLATEL shall be required to notify all active customers no later than May 10, 2004, that a freeze may have been placed on the customer's line and that FLATEL will submit the report detailed above to this Commission by August 9, 2004. It is further

ORDERED that if our staff determines that FLATEL has complied with the provisions of this Order, then this docket will be closed administratively. If FLATEL fails to demonstrate that it has complied with the provisions of this Commission's Order, then this docket shall remain open pending further proceedings before this Commission. It is further

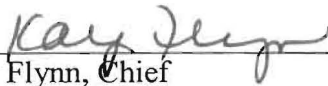
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission 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.

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By ORDER of the Florida Public Service Commission this 24th day of May, 2004.

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

By:



Kay Flynn, Chief
Bureau of Records

(S E A L)

JPR

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

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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 June 14, 2004.

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.