

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	
proceedings for failure to file 1989)	
annual reports:)	
)	
CENTURY NETWORK, INC.)	DOCKET NO. 900272-TI
PLAZA S-L, INC.)	DOCKET NO. 900255-TI
TOUCH 1 LONG DISTANCE, INC.)	DOCKET NO. 900257-TI
TELECOM PLUS, LTD.)	DOCKET NO. 900259-TI
)	ORDER NO. 22900
)	ISSUED: 5-7-90

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Rule 25-24.480, Florida Administrative Code (the Rule), requires each interexchange carrier (IXC) to file an annual report with our Division of Communications by January 31st of each year. Our Staff notified all IXCs by letter dated December 15, 1989, that the due date for the 1989 annual report was approaching. Thirty IXCs did not file their 1989 annual reports by the January 31, 1990 deadline.

The annual reports of twenty of these companies, including the four listed in the caption above, were received after the January 31st deadline, and this represents their first apparent violation of the Rule. The 1989 annual reports of the subject companies were received on the following dates:

- (1) Century Network, Inc. - February 12, 1990;
- (2) Plaza S-L, Inc. - February 28, 1990;
- (3) Touch 1 Long Distance, Inc. - February 5, 1990; and
- (4) Telecom Plus, Ltd. - March 15, 1990.

Our Staff recommended three categories of proposed fines, ranging from \$2,000 to \$4,000, for the twenty companies that were late in filing for the first time, based on the length of

DOCUMENT NUMBER-DATE

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ORDER NO. 22900
DOCKETS NOS. 900272-TI, 900255-TI, 900257-TI & 900259-TI
PAGE 2

tardiness. For companies whose reports were received in the following time periods, Staff urged us to adopt the fines indicated for each category: (1) February 1-15, 1990 - \$2,000; (2) February 16-28 - 1990, \$3,000; and (3) on or after March 1, 1990 - \$4,000.

Upon consideration, we will order the four companies dealt with in this Order to show cause why they should not be fined one-half of our Staff's recommended amounts. Representatives of these four companies attended our Agenda Conference of April 17, 1990, and presented reasons why they believe we should recognize mitigating circumstances in setting the amounts of their fines. They pointed out that each of these companies has held its certificate for less than one year, and as a result, the 1989 annual reports were the first ever submitted by them.

Based on these arguments, we order the following companies to show cause why they should not be fined the amounts indicated:

- (1) Century Network, Inc. - \$1,000;
- (2) Plaza S-L, Inc. - \$1,500;
- (3) Touch 1 Long Distance, Inc. - \$1,000; and
- (4) Telecom Plus, Ltd. - \$2,000.

Additionally, these companies shall show cause why their certificates should not be cancelled. However, in an effort to save the time and costs that would otherwise be expended in pursuing these proceedings, we will offer the subject companies an alternative to showing cause. For any company electing not to show cause but choosing instead to accept our offer in settlement, we will accept a payment of one-half of these amounts if such payment is received no later than 30 days after the issuance date of this Order. For companies electing to accept this offer, we will suspend the remainder of these amounts until the 1990 reports are due on January 31, 1991. Upon the timely filing of the electing company's 1990 report, the suspended portion of these amounts will be waived.

If the 1990 report is filed late, the late-filing company will be required to pay the suspended portion of its amount for this apparent violation as well as an additional fine that we will impose for that future violation. A company's acceptance of this settlement offer by paying the amount offered shall be deemed as acceptance of our condition that the suspended portion shall become due upon its failure to file its 1990

ORDER NO. 22900
DOCKETS NOS. 900272-TI, 900255-TI, 900257-TI & 900259-TI
PAGE 3

report on time. We reserve judgment as to the proper amount of the fine that will be imposed for violating the Rule next year, and we caution all IXCs to comply strictly with the Rule in the future. Future leniency will not be shown for continuous failures to comply with the Rule.

In the event that any of the four subject companies fails to show cause within the time specified below or to pay the amount offered above within 30 days of the issuance date of this Order, we hereby direct our Staff to cancel the failing company's Certificate of Public Convenience and Necessity and to close the relevant docket under the administrative authority delegated here. For any such company whose certificate is cancelled for failure to respond or to pay the specified amount, we hereby waive any fine that may otherwise be assessed.

Based on the foregoing, it is hereby

ORDERED by the Florida Public Service Commission that Century Network, Inc., and Touch 1 Long Distance, Inc., shall show cause in writing why their certificates should not be cancelled and why a \$1,000 fine should not be assessed against them for their apparent failure to file timely the report required by Rule 25-24.480, Florida Administrative Code. It is further

ORDERED that Plaza S-L, Inc., shall show cause in writing why its certificate should not be cancelled and why a \$1,500 fine should not be assessed against it for its apparent failure to file timely the report required by Rule 25-24.480, Florida Administrative Code. It is further

ORDERED that Telecom Plus, Ltd., shall show cause in writing why its certificate should not be cancelled and why a \$2,000 fine should not be assessed against it for its apparent failure to file timely the report required by Rule 25-24.480, Florida Administrative Code. It is further

ORDERED that the written responses to this Order by the interexchange carriers dealt with herein must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the time established below. It is further

ORDERED that any response filed by the interexchange carriers listed in the caption of this Order must contain specific statements of fact and law. It is further

ORDER NO. 22900
DOCKETS NOS. 900272-TI, 900255-TI, 900257-TI & 900259-TI
PAGE 4

ORDERED that failure by any of the interexchange carriers listed in the caption of this Order to file a written response within the prescribed time period will constitute an admission of noncompliance, resulting in all allegations being admitted. It is further

ORDERED that failure by any of the interexchange carriers listed in the caption of this Order to request a hearing in any written response that is submitted will constitute a waiver of any right to a hearing in this matter. It is further

ORDERED that each interexchange carrier listed in the caption of this Order may elect to comply with the requirements established in this Order in settlement of the apparent violation of Rule 25-24.480, Florida Administrative Code, and that the Staff of the Florida Public Service Commission is hereby delegated the authority to close administratively the docket applicable to the complying company. It is further

ORDERED that, if any company listed in the caption of this Order neither responds in writing to this Order nor pays the amount specified in the body of this Order, the Staff of the Florida Public Service Commission is hereby delegated the administrative authority to cancel the non-complying company's Certificate of Public Convenience and Necessity and to close the relevant docket, and the assessed fine is hereby waived in the event of such cancellation.

By ORDER of the Florida Public Service Commission,
this 7th day of MAY, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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ORDER NO. 22900
DOCKETS NOS. 900272-TI, 900255-TI, 900257-TI & 900259-TI
PAGE 5

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 28, 1990.

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 pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(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 sewer 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.