

## FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

March 19, 1991

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES [ADAMS] *MKA* *H*  
DIVISION OF CONSUMER AFFAIRS [BROWN] *DB*

RE : DOCKET NO. 910292-TI, INITIATION OF SHOW CAUSE  
PROCEEDINGS AGAINST TELESHERE NETWORK INC. FOR  
VIOLATION OF FPSC RULES 25-4.111(1) AND 25-4.043  
REGARDING RESPONSES TO CONSUMER COMPLAINTS

AGENDA: APRIL 2, 1991

PANEL : FULL COMMISSION

CRITICAL DATES: NONE

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CASE BACKGROUND

In 1990 consumers filed nineteen (19) complaints with the Division of Consumer Affairs against Telesphere Network Inc. As each complaint was filed, staff faxed or mailed the written complaint to Telesphere and requested a written response within fifteen (15) days in accordance with Rules 25-111(1) and 25-4.043, Florida Administrative Code (F.A.C.) and the Division of Consumer Affairs procedures.

In four of the 19 cases, the company did not respond at all to repeated staff requests for information. Three of these four cases were closed after obtaining information from the local exchange company or the customer. The other case remains unresolved, with no answer received from Telesphere Network despite numerous letters, calls and certified letters requesting information.

Of the remaining fifteen (15) cases, eleven (11) responses received by staff arrived late (past the due date specified on the complaint form for reply.) These responses were received only after many attempts by staff to obtain replies to aid in the resolution of the complaints. Total attempts by staff to obtain responses to complaints from Telesphere included 13 phone calls, ten faxed messageas, four letters via regular mail, and five certified letters. In spite of staff's efforts, Telesphere

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provided either late or no response on 79% of the complaints.

This problem has continued into 1991 as four complaints have been filed and no responses have been received, despite follow-up requests by staff.

A list of all complaints and response times is attached.  
(Attachment 1).

Staff has exhausted its efforts to achieve Telesphere's compliance with Rules 25-4.111(1) and 25-4.043, F.A.C., which apply to Interexchange Telephone Companies (IXCs) by incorporation in Rules 25-24.490 and 25-24.480 respectively. Staff now brings the following recommendation before the Commission for its consideration.

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### DISCUSSION OF ISSUES

**ISSUE 1:** Should Telesphere Network Inc. show cause why it should not be fined for violation of rules that require response to customer complaints and commission staff inquiries?

**RECOMMENDATION:** Yes, Telesphere Network Inc. should show cause why it should not be fined \$3,800 for not responding to requests for information from staff in a timely manner as required by commission rules.

**STAFF ANALYSIS:** Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries states that:

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.

Telesphere has repeatedly violated the above rule.

Despite numerous requests by staff for the information needed in order to resolve and respond to customer complaints, Telesphere provided responses in a timely manner only four times in 1990. On the other fifteen (15) occasions, either no responses were received or responses were received past the 15 days specified in FPSC rules and in most cases only after many written and verbal requests. In four cases, no responses were ever provided by Telesphere.

Rule 25-4.111, F.A.C., Customer Complaints and Service Requests states:

(1) Each telephone utility shall make a full and prompt investigation of all complaints and service requests made by its customers, either directly to it or through the Commission and respond to the initiating party within fifteen (15) days. The term "complaint" as used in this rule shall be construed to mean any oral or written report from a subscriber or user of telephone service relating to facilities, errors in billing or the quality of service rendered.

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It should be noted that most customers file complaints with the Division of Consumer Affairs only after first attempting to resolve the complaints by contacting the utility themselves. In fact, part of the division's procedures include screening complaints from customers and referring the customers directly to the utility if they have not already contacted it. Therefore it does not appear that Telesphere's failure to respond to commission staff is due to the company's having already resolved the customer's concerns as staff determined that the customers who filed complaints were justified in contacting the commission for assistance in over half of the cases closed.

In addition, nine of the complaints filed against Telesphere concerned charges of slamming. In one such case it took Telesphere seven months to provide a response to the commission. A complaint alleging an improper carrier change was filed on August 17, 1990 and the response received March 4, 1991 acknowledged that Telesphere "has experienced several cases of unauthorized switchover of phones - both institutional and pay telephones - by our independent sales agents." Telesphere also wrote that it will "actively seek out offending sales agents and is demanding the termination of any representative who engages in deceptive sales practices." It is puzzling that although Telesphere professes concern for this situation and even admits that it is aware of "several cases", it took the company 7 months to reply to the commission.

Telesphere Network Inc. has repeatedly violated FPSC rules by not responding in a timely manner to the reasonable requests made by staff for information to aid in the investigation of customer complaints. In addition, the lack of response by Telesphere caused extra expense to the commission and the taxpayers of Florida as it was necessary for staff to spend an inordinate amount of time calling the company, writing letters and sending certified mail requests in an effort to get the requested information.

Furthermore, staff spent time following up with customers who recontacted the commission to find out why their previous complaints remained unresolved. A disproportionate amount of time has been spent by staff in trying to get the required written responses from Telesphere as compared to the time spent processing complaints filed against other utilities. Based on past experience staff has reason to believe that this will continue unless fines are imposed for these repeated rules violations. We believe that without the commission's strong

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statement that noncompliance with its rules will not be tolerated, staff will continue to have difficulty getting the information necessary to aid consumers in a timely manner.

Telesphere has not offered staff any valid reason for its continued lack of attention to requests for information. Not receiving the requested information from a utility hampers staff's ability to respond to customers seeking assistance from the commission and undermines the commission's effectiveness in handling customer complaints.

Therefore, staff believes the Commission should have Telesphere Network Inc. show cause why it should not be fined \$3,800 or \$200 for each case where a response was filed past the due-date and in each case where no response was filed at all.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No, this docket should remain open pending resolution of the show cause proceeding.

**STAFF ANALYSIS:** This docket should remain open pending the company's response and resolution of the show cause proceeding. However, if the company fails to file a response, its certificate should be cancelled and this docket closed.

## ATTACHMENT 1

## Telesphere Network Complaints

1990

<u>Complaint</u>	<u>Date to Co.</u>	<u>Report Due</u>	<u>Report Rcvd</u>	<u>Follow-ups</u>
Wach, V.	1/5/90	1/22/90	timely	--
Charest, C.	2/23/90	3/12/90	4/26/90	--
Johnson, F.	2/26/90	3/13/90	6/11/90	three
Lawson, D.	3/6/90	3/21/90	timely	--
Jones, J.	5/9/90	5/24/90	7/18/90	two
Zoryk, P.	5/14/90	5/29/90	6/11/90	two
Felts, L.	5/24/90	6/8/90	none	--
Royal Beach	6/6/90	6/21/90	7/16/90	one
Inman, T.	6/19/90	7/5/90	9/17/90	one
Whited, J.	6/22/90	8/1/90 ext	timely	one
Hutcherson	7/13/90	7/30/90	none	--
Brown, M.	7/17/90	8/1/90	none	two
Christian	7/26/90	8/10/90	10/30/90	two
Cairnie, K.	8/17/90	9/14/90	10/29/90	one
K & F	8/17/90	9/4/90	3/5/91	seven
Hauth, L.	8/27/90	9/11/90	timely	--
Grab-n-Shop	9/25/90	10/10/90	3/5/91	one
Maxon, G.	11/7/90	11/26/90	3/4/91	one
Smith, R.	12/19/90	1/3/91	none	four
				*
<u>1991</u>				
Meloy, P.	2/1/91	2/15/91	none	one
Ora at Mel.	2/5/91	2/20/91	none	one
Mastry, E.	2/26/91	3/13/91	none	
Horman, D.	3/1/91	3/18/91	none	

\*In addition, two letters were sent, one in October and one in February, 1991, listing all open cases and requesting responses.