

SUNFOREST COMMUNICATIONS GROUP

April 3, 1991

Director, Division of Records and Reporting
Florida Public Service Commission
Fletcher Building
101 East Gaines Street
Tallahassee, FL 32399-0866

ORIGINAL
COPY

Re: Docket No. 910137-T1

Dear Sir:

910137-T1

We have reviewed the Florida Public Service Commission's Order No. 24247 in regard to the above Docket No. ~~910134-T1~~. Regarding our late filing and the proposed penalty, we submit that

- 1) We are a small company with four employees at our STS locations. I am personally responsible for all paper-work, which is significant even though we are small. We avoid using Federal Express or Certified Mail in order to save money.
- 2) The report was completed and mailed as required. Is it possible it was received but not recorded until February 1? We have been unable to have this question answered.
- 3) The \$1000 fine as proposed is extremely significant to a company of our size. This does not appear consistent with either the infraction nor the impact upon the consumer.

We waive our right to appear at a public hearing in Tallahassee due to the expense in both manpower and resources for such a trip. We will be pleased to answer any questions the Commission may have by telephone, if necessary. We respectfully await the decision of the Commission.

Sincerely,

Barbara R. Plautz
Barbara R. Plautz
Vice-President

DOCUMENT NUMBER - 03389
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FPC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)
proceedings for failure to file 1990)
annual reports:)
)
AFFINITY NETWORK, INC.) DOCKET NO. 910127-TI
AMERICAN LONG DISTANCE COMPANY) DOCKET NO. 910128-TI
COMMUNICATIONS CATALYST CORP.) DOCKET NO. 910130-TI
EXCEL TELECOMMUNICATIONS, INC.) DOCKET NO. 910131-TI
MTS-TAMPA, INC.) DOCKET NO. 910134-TI
SUNFOREST COMMUNICATIONS GROUP) DOCKET NO. 910137-TI
) ORDER NO. 24247
) ISSUED: 3/18/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
GERALD L. GUNTER
MICHAEL MCK. WILSON

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 letters dated November 16, 1990, and January 3, 1991, that the due date for the 1990 annual report was approaching. Fourteen IXCs did not file their 1990 annual reports by the January 31, 1991 deadline. On February 4, 1991, our Staff sent a third notice to the eleven IXCs which had still not filed annual reports.

The annual reports of seven companies, including the six listed in the caption above, were received after the January 31, 1991 deadline. The 1990 annual reports of the subject companies were received on the following dates:

- (1) MTS-Tampa - February 1, 1991;
- (2) Sunforest Communications - February 1, 1991;
- (3) Communications Catalyst Corporation - February 4, 1991;
- (4) Affinity Network, Inc. - February 12, 1991; and
- (5) American Long Distance Company - February 19, 1991
- (6) Excel Telecommunications, Inc. - March 4, 1991

DOCUMENT NUMBER-DATE

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Of the companies listed above, Communications Catalyst Corporation, Affinity Network, Inc., American Long Distance Company, and Excel Telecommunications, Inc. are first time violators of the Rule and were certificated in 1990. MTS-Tampa and Sunforest Communications previously violated the Rule in 1988, submitting their reports on February 1, 1989 and February 3, 1989, respectively. However, we did not initiate action against any company that filed a 1988 annual report before February 9, 1989; thus these companies were not notified by the Commission as violating the Rule. Therefore, we also consider these companies to be first time violators of the Rule.

The companies are made aware of Commission rules when they are granted certificates. In addition, each company received two reminder notices. Therefore, we find it appropriate to order each IXC listed above to show cause why it should not be fined \$1000 for violation of Commission Rule 25-24.480.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Affinity Network, Inc., American Long Distance Company, Communications Catalyst Corporation, Excel Telecommunications, Inc., MTS-Tampa, and Sunforest Communications shall show cause in writing why a \$1000 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 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

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

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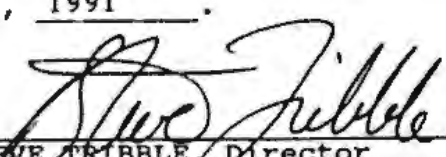
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ORDERED that failure by any of the interexchange carriers listed in the caption of this Order to request a hearing in any written response that is submitted will constitute a waiver of any right to a hearing in this matter. It is further

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 assessed fine, the respective company's certificate shall be cancelled 30 days after issuance of this Order, the assessed fine shall be waived, and the Staff of the Florida Public Service Commission is hereby delegated the administrative authority to close that company's docket.

By ORDER of the Florida Public Service Commission, this
18th day of MARCH, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

PAK

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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 April 8, 1991.

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.