

Talbott *mmf*  
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FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**M E M O R A N D U M**

September 26, 1996

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF COMMUNICATIONS (MOSES) *mmf*  
DIVISION OF LEGAL SERVICES (M. BROWN) *MCB*

**RE:** DOCKET NO. 960286-TC - EXCEL TELECOMMUNICATIONS, INC. OF  
GEORGIA - INITIATION OF SHOW CAUSE PROCEEDINGS FOR  
VIOLATION OF RULE 25-24.515, F.A.C., PAY TELEPHONE  
SERVICE REQUIREMENTS.

**AGENDA:** 10/08/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** S:\PSC\CMU\WP\960286B.RCM

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**CASE BACKGROUND**

Excel Tele-Communications, Inc. of Georgia (Excel) received a certificate (No. 3784) to provide pay telephone service on June 25, 1994. According to the 1995 annual report filed by the company, it operates 39 pay telephones in Florida. Excel earned \$2,240 in intrastate gross revenues according to its regulatory assessment fee filing for the period July 1, 1995 through December 31, 1995.

On May 10, 1996, the Commission issued Order No. PSC-96-0631-FOF-TC, requiring Excel to show cause why it should not be fined and/or have its certificate revoked for violation of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service Standards. On May 30, 1996, Excel filed its response to the Order. In its response, Excel acknowledged the existence and severity of the violations and did not request a hearing. Therefore, staff's recommendation deals with the appropriate penalty that should be imposed based upon the company's response and the issues outlined in Order No. PSC-96-0631-FOF-TC.

DOCUMENT NUMBER-DATE

10362 SEP 26 96

FPSC-RECORDS/REPORTING

DOCKET NO. 960286-TC  
DATE: SEPTEMBER 26, 1996

**ISSUE 1:** Should Excel be ordered to pay a fine of \$1,000 to the Florida Public Service Commission, with the monies to be forwarded to the Office of the State Treasurer for deposit in the General Revenue Fund, for multiple violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service Standards, or have its certificate cancelled?

**RECOMMENDATION:** Yes, Excel should be ordered to pay a fine of \$1,000 to the Florida Public Service Commission, with the monies to be forwarded to the Office of the State Treasurer for deposit in the General Revenue Fund, for multiple violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service Standards, or certificate no. 3784 should be cancelled.

**STAFF ANALYSIS:** The violations detailed in Order No. PSC-96-0631-FOF-TC (Attachment A) included: improper routing of calls; blocking access to interexchange carriers; failure to post basic information and dialing instructions; and, failure to provide telephone directories. One or more of these violations were present on each of the payphones inspected by staff. Excel has not contested these facts.

Mr. Rodney Culpepper, President of Excel filed a response on behalf of the company (Attachment B). The response acknowledges the existence and severity of the violations but states that the violations were unintentional. Mr. Culpepper blames the violations on poor management practices and a destructive partnership that he has since dissolved. The company's response also alludes to someone having tampered with the programming of its payphones. This is an allegation that was also made by Mr. Culpepper in earlier correspondence, however, the claim is unsubstantiated.

Excel completed repairs to the payphones and cooperated with staff after receiving notification of the violations. The company's response states that it will abide by the Commission's regulations. Excel's response also states that it now strictly monitors access to its programming as a prevention against tampering.

Nevertheless, staff believes that the fact that Excel allowed conditions to exist in which poor management and lack of proper oversight caused multiple violations of the pay telephone service standards to exist is cause for a financial penalty to be imposed. Section 364.285, Florida Statutes, Penalties, states in pertinent part:

- (1) The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter which is found

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to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$25,000, which penalty shall be fixed, imposed, and collected by the commission; or the commission may, for any such violation, amend, suspend, or revoke any certificate issued by it.

In previous dockets involving violations of the Commission's pay telephone service requirements, penalties ranging from \$500 to \$60,400 have been imposed. Taking into consideration the company's size, we recommend that Excel be ordered to pay a fine in the amount of \$1,000. If Excel chooses not to pay the \$1,000 fine, staff recommends that certificate no. 3794 be cancelled without further Commission action.

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

**RECOMMENDATION:** Yes. If no person whose substantial interests are affected files a protest within 21 days of the issuance of the Order, the Order will become final. Excel will then have 30 days from the date the Order becomes final to pay the fine to the Florida Public Service Commission, with the monies to be forwarded to the Office of the State Treasurer for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, or certificate no. 3784 will be cancelled without further Commission action.

**STAFF ANALYSIS:** If the Commission approves the staff recommendation in Issue 1, a proposed agency action order imposing a fine will be issued. If no person whose substantial interests are affected files a protest within 21 days of the issuance of the Order, the Order will become final, and Excel will have 30 days from the date the Order becomes final to pay the \$1,000 fine or certificate no. 3784 will be cancelled without further Commission action.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause ) DOCKET NO. 960286-TC  
 proceedings against Excel Tele- ) ORDER NO. PSC-96-0631-FOF-TC  
 Communications, Inc. d/b/a Excel ) ISSUED: May 10, 1996  
 Tele-Communications, Inc. of )  
 Georgia for violation of Rule )  
 25-24.515, F.A.C., Pay Telephone )  
 Service Requirements. )

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The following Commissioners participated in the disposition of this matter:

- SUSAN F. CLARK, Chairman
- J. TERRY DEASON
- JOE GARCIA
- JULIA L. JOHNSON
- DIANE K. KIESLING



ORDER TO SHOW CAUSE

BY THE COMMISSION:

Excel Tele-Communications, Inc. d/b/a Excel Tele-Communications, Inc. of Georgia (Excel) is the holder of Certificate No. 3784, by which it is authorized to provide pay telephone service. When it applied for a certificate to provide pay telephone service, Excel was provided with a copy of our rules and regulations. A representative of Excel signed a statement acknowledging its receipt and of the rules and regulations and agreeing to abide by all current and future Commission requirements regarding pay telephone service.

According to its 1995 annual report, Excel owns and operates 39 pay telephones in Florida. According to its regulatory assessment fee filing for the period July 1, 1995, through December 31, 1995, Excel earned \$2,240 in intrastate gross revenues.

Staff evaluated fifteen of Excel's pay telephones on February 14 and 15, 1996, and found all fifteen telephones were in violation of one or more of our service standards. These violations, and the corresponding telephone numbers, are detailed on page 1 of Attachment A. Page 2 of Attachment A is a key for the violation codes. The number of violations of each rule are detailed below:

DOCUMENT NUMBER-DATE

05288 MAY 10 96

FPSC-RECORDS/REPORTING

<u>VIOLATION</u>	<u>NO. OF TELEPHONES</u>
Rule 25-24.515(1) Insufficient light to read instructions at night	1
Rule 25-24.515(2) Automatic coin return function not working	1
Rule 25-24.515(4) Coin free number for repairs/refunds did not work	5
Rule 25-24.515(5) Legible/correct telephone number not displayed	13
Responsible party for refunds/repairs not displayed	15
Correct address of pay telephone location not displayed	15
Certificated name of provider not displayed	11
LEC responsibility disclaimer not displayed	15
Clear and accurate dialing instructions not displayed	7
Statement of services not available not displayed	14
Rule 25-24.515(6) Access to all IXCs not available	15
Rule 25-24.515(7) No direct free service to local operator	12
0+ local calls do not go to LEC operator	15
Rule 25-24.515(8) Incoming calls cannot be received	3
Rule 25-24.515(11) Current directory not available	14
Rule 24-24.515(13) Not accessible to physically handicapped	2
Miscellaneous service problems not covered by Rule	
Not in service	2
Combinations of nickels and dimes did not work	1

Each of the telephones inspected improperly routed 0+ and 0- local calls to Amnex rather than the local exchange company (LEC) operator, in violation of Rule 25-24.515(7), Florida Administrative Code. In addition, none of the telephones allowed access to all available interexchange carriers, in violation of Rule 25-24.515(6), Florida Administrative Code. Eleven of the telephones also routed calls to Amnex when the evaluator dialed AT&T's access

code (10288+0). The remaining four pay telephones did not allow 950 access to long distance carriers. We are especially troubled by these violations, because most of these capabilities, or the lack thereof, did not result from negligence or poor maintenance, but had to have been programmed into the telephone.

In addition to the above, few of the pay telephones had such basic information posted as the name of the provider, and the pay telephone number and street address. Moreover, at least four of the pay telephones requested a \$.25 deposit to place a call to the repair/refund number and only one of the fifteen pay telephones had a directory available.

Based upon the foregoing, we find it appropriate to require Excel to show cause, in writing, why it should not be fined or have its certificate cancelled for violation of our pay telephone service rules. Excel's response must contain specific allegations of fact and law. Should Excel fail to file a timely response to this Order, such failure shall constitute an admission of all facts alleged herein, in accordance with Rule 25-22.037(3), Florida Administrative Code, and a waiver of any right to a hearing. Fines and penalties paid by other pay telephone providers for similar violations have ranged from \$500 to \$60,000.

It is, therefore,

ORDERED by the Florida Public Service Commission that Excel Tele-Communications, Inc. d/b/a Excel Tele-Communications, Inc. of Georgia shall show cause, in writing, within twenty (20) days, why it should not be fined and/or have its certificate revoked, for violating Rule 25-24.515, Florida Administrative Code. It is further

ORDERED that Excel Tele-Communications, Inc. d/b/a Excel Tele-Communications, Inc. of Georgia's response must contain specific allegations of fact and law. It is further

ORDERED that, if Excel Tele-Communications, Inc. d/b/a Excel Tele-Communications, Inc. of Georgia fails to file a response by the date specified in the Notice of Further Proceedings or Judicial Review, such failure shall constitute an admission of all facts alleged in the body of this Order, in accordance with Rule 25-22.037(3), Florida Administrative Code, as well as a waiver of any right to a hearing.

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By ORDER of the Florida Public Service Commission, this 10th  
day of May, 1996.

*Blanca S. Bayó*

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

RJP

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 30, 1996.

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 wastewater 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.



March 7, 1996

ATTACHMENT A  
 PAGE 1 OF 2

EXCEL TELECOMMUNICATIONS, INC.  
 BREAKDOWN OF INDIVIDUAL EVALUATIONS

Phone Number	Date Evaluated	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29
904-230-9093	02-14-96			X		X	X		X							X														X
904-234-8937	02-13-96			X	X	X	X		X							X	X				X	X	X							X
904-235-9001	02-14-96			X	X	X	X		X							X	X	X			X	X	X							X
904-234-9096	02-14-96			X	X	X	X		X						X	X	X	X			X	X	X							X
904-234-9713	02-14-96		X	X	X	X	X		X						X	X	X	X			X	X	X							X
904-235-9097	02-14-96			X	X	X	X		X							X		X			X	X	X							X
904-230-9259	02-15-96			X	X	X	X		X						X	X		X			X	X	X				X			X
904-230-9190	02-15-96			X	X	X	X		X				X		X	X		X			X	X	X							X
904-234-8343	02-15-96			X	X	X	X		X						X	X		X			X	X	X							X
904-235-9887	02-15-96		X	X	X	X	X		X						X	X		X			X	X	X							X
904-234-8331	02-15-96	X		X	X	X	X		X						X	X		X		X		X	X							X
904-234-8322	02-15-96		X	X	X	X	X		X						X	X		X		X		X	X							X
904-234-9015	02-15-96			X	X	X	X		X						X	X		X			X	X	X							X
904-234-8267	02-15-96			X	X	X	X		X						X	X		X			X	X	X							X
904-234-9074	02-15-96			X	X	X	X		X						X	X		X			X	X	X							X

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NON-LEC PAY TELEPHONE EVALUATION ITEMS

ITEMS

DESCRIPTION

1	Telephone was not in service.
2	Telephone was not accessible to the physically handicapped.
3	Telephone number plate was not displayed.
4	Address of responsible party for refunds/repairs was not displayed.
5	Coin free number for repairs/refunds did not work properly.
6	Current directory was not available.
7	Extended Area Service and Local calls were not \$25 or less.
8	Wiring not properly terminated or in poor condition.
9	Address of pay phone location was not displayed.
10	Instrument was not reasonably clean.
11	Enclosure was not adequate or free of trash.
12	Glass was chipped or broken.
13	Inadequate light to read instructions at night.
14	Name of provider (as it appears on certificate) was not displayed.
15	Local Telephone Company responsibility disclaimer not displayed.
16	Clear and accurate dialing instructions were not displayed.
17	Statement of services not available was not displayed.
18	Automatic coin return function did not operate properly.
19	Incoming calls could not be received or bell did not ring loud enough.
20	Direct coin free service to the local operator did not work.
21	Direct coin free service to local Directory Assistance did not work.
22	Access to all available interexchange carriers was not available.
23	Coin free service to 911 did not work.
24	911 center could not verify the street address of the pay phone.
25	Transmission was not adequate or contained noise.
26	Did not comply with 0+ local LATA Toll rate cap - AT&T + opr chg + \$25
27	Combinations of nickels and dimes did not operate correctly.
28	Dial pad did not function after call was answered.
29	0 + area code + local number did not go to LEC operator as required.



# WORKING IN THE BACKGROUND - TO CONNECT YOU

May 28, 1996

Florida Public Service Commission  
Flecher Building, 101 East Gaines St.  
Tallahassee, FL 32399-0850



Re: Docket No. 960286-TC

Dear Commissioners,

As previously stated, we just ended a partnership that almost destroyed our company. Poor management and a careless disregard for priorities mark the previous approach to running this company. We feel a change in employee and management personnel has taken care of the lax attitude formerly exhibited. The first indication the present management had of any difficulties was the receipt of your letter.

We have since made most corrections in programming (we are still working out some bugs) and corrected most other violations, i.e., phone books, labels etc. We began making corrections immediately upon receipt of the first letter and have cooperated willingly with all requests. We do not deny we were (unknowingly) in the wrong, we only ask you consider the circumstances that led to our violations.

We agree the violations were severe however, they were unintentional, and we feel this should be a consideration in any action taken. It is our intent to fully cooperate with the commission and abide by all regulation. All access to programming is strictly monitored to prevent any further tampering.

If you require further information or assistance in this matter, please contact our office.

Sincerely,

*Rodney Culpepper*  
Rodney Culpepper