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FLORIDA PUBLIC SERVICE COMMISSION
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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 (ISLER) *Pji*
DIVISION OF LEGAL SERVICES (CULPEPPER) *sa (NC)*

RE: DOCKET NO. 961085-TI - TEL-CENTRAL - INITIATION OF SHOW
CAUSE PROCEEDINGS FOR VIOLATIONS OF RULES 25-24.470,
FLORIDA ADMINISTRATIVE CODE, CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY REQUIRED, AND 25-4.043, FLORIDA
ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF
INQUIRIES

AGENDA: OCTOBER 8, 1996 - REGULAR AGENDA - SHOW CAUSE -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\961085TI.RCM

CASE BACKGROUND

• A representative in the debit card industry provided staff with a debit card issued by Tel-Central. The industry representative advised staff that this card, along with many others, are being sold in the Miami area. Tel-Central is not certificated as an interexchange carrier in Florida.

• Staff sent a certified letter to Tel-Central on July 9, 1996, for information about its operations in Florida and informed the company that an IXC certificate may be required for its operations. A response was requested by July 25, 1996. The U.S. Postal Service returned the return receipt showing the letter was delivered to and signed for by Tel-Central on July 15, 1996.

• Tel-Central has not responded to the Commission.

DOCUMENT NUMBER-DATE

10388 SEP 26 W

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DISCUSSION OF ISSUES

ISSUE 1: Pursuant to Chapter 364.285, Florida Statutes, should Tel-Central be ordered to show cause why a fine of up to \$25,000 per day should not be imposed each day it is determined to be in violation of Rules 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, and 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Rule 25-24.470, Florida Administrative Code, states:

No person shall provide intrastate interexchange telephone service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may deposits or payment for services be collected, until the effective date of a certificate, if granted. However, acquisition of equipment and facilities, advertising and other promotional activities may begin prior to the effective date of the certificate at the applicant's risk that it may not be granted. In any customer contacts or advertisements prior to certification, the applicant must advise the customer that certification has not and may never be granted.

In addition, Rule 25-24.480 (1)(a), Florida Administrative Code, incorporates Rule 25-4.043, Florida Administrative Code, and 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."

Communications staff was provided a debit card issued by Tel-Central that was being sold in the Miami area. Since it appeared the company may be providing long distance service through the use of debit cards, on July 9, 1996, staff mailed Tel-Central a certified letter and explained that there were two types of companies providing debit card service and asked the company to describe what type of service it was providing, i.e., distributor/reseller or underlying carrier. A response was

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requested by July 25, 1996. Staff was notified by the U.S. Postal Service that the July 9 letter was delivered, and signed for by Tel-Central, on July 15, 1996. However, as of September 23, 1996, the company has not responded.

Prepaid debit card service has become increasingly popular, and while the Commission welcomes innovation in the telecommunications industry, staff believes the Commission also has the responsibility of ensuring consumers receive the service being purchased. Based on the facts that Tel-Central signed for staff's letter and never responded, it appears that Tel-Central is simply not responding to staff. Therefore, we believe it important to go forward with the show cause.

In previous dockets involving violations of the response requirement and providing service without an IXC certification, fines and/or settlements have ranged up to \$40,714. In this case, staff believes that providing service without an interexchange carrier certificate and not responding to staff's correspondence warrants a penalty.

ISSUE 2: Should this docket be closed?

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

STAFF ANALYSIS: If the Commission approves the staff recommendation on Issue 1, an order to show cause will be issued. Tel-Central must respond, in writing, to the allegations set forth in the show cause order within 20 days of the issuance of the order. The company's response must contain specific allegations of facts and law. In the event the company is fined, the monies should be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.