

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 960217-TI
 proceedings against Telecuba,)
 Inc. for violation of Rule 25-) FILED: APRIL 4, 1997
 24.470, F.A.C., Certificate of)
 Public Convenience and Necessity)
 Required.)

STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-97-0047-PCO-TI, the Staff of the Florida Public Service Commission files its Prehearing Statement.

- A. All Known Witnesses: Staff proposes to call Rick Moses as a witness to offer direct testimony. Staff reserves the right to call additional witnesses, witnesses to respond to Commission inquiries not addressed in direct testimony, and witnesses to address issues not presently designated that may be designated at the prehearing conference to be held on May 19, 1997.
- B. All Known Exhibits: Listed below is a tentative list of exhibits which staff intends to utilize in this proceeding. Staff reserves the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Civil Procedure and the Rules of this Commission.

<u>WITNESS</u>	<u>DOCUMENT INDICATOR</u>	<u>TITLE OF EXHIBIT</u>
Rick Moses	(RAM-1)	12/18/95 Letter from Luis Coello to Joel Esquenazi and Carlos Rodriguez
ACK _____	(RAM-2,	2/13/96 Staff Inquiry Letter to Telecuba and 2/15/96 Responses by Luis Coello
AFA _____	(RAM-3)	2/26/96 Letter to Staff from Telecuba in Response to 2/13/96 Staff Inquiry
APP _____		
CAF _____		
CMU _____		
CTR _____		
EAG _____		
LEG _____		
LIN <u>3</u>		
OPC _____		
RCH _____		
SEC <u>1</u>		
WAS _____		
OTH _____		

DOCUMENT NUMBER-DATE
 03522 APR-4 5
 FPSC-RECORDS/REPORTING

<u>WITNESS</u>	<u>DOCUMENT INDICATOR</u>	<u>TITLE OF EXHIBIT</u>
	<u>(RAM-4)</u>	12/11/95 to the FCC from Luis Coello
	<u>(RAM-5)</u>	FCC Order on Debit Card Services, DA 95-2288
	<u>(RAM-6)</u>	11/8/96 Letter to Staff from Robert J. McWilliams
	<u>(RAM-7)</u>	11/8/96 Telecuba Debit Card
	<u>(RAM-8)</u>	November/December Calls Correspondent: Bill from World Access for Service to Telecuba

C. Staff's Statement of Basic Position:

Staff believes that Telecuba, Inc. (Telecuba) operated as an telecommunications company under the terms of Chapter 364, Florida Statutes, in Florida without a certificate of public convenience and necessity. Telecuba resold minutes of use obtained from World Access Communications Corporation (World Access) through the sale of prepaid calling cards. Telecuba compensated World Access only for the minutes actually used by Telecuba's customers on each card. Telecuba did not compensate World Access for the full amount of time on each card prior to use of the cards by Telecuba customers.

Staff believes that this resale of interexchange telecommunications services without a certificate is a violation of Rule 25-24.470, Florida Administrative Code, which requires all interexchange telecommunications companies to obtain a certificate from the Florida Public Service Commission. As a result, staff believes that a fine of \$25,000 is warranted.

Staff also strongly maintains that Telecuba must implement an adequate refund mechanism to customers harmed by its non-working cards. In December, 1995, World Access notified Telecuba that it was shutting down the 1-800 access numbers used by Telecuba for its cards because of an unresolved billing dispute with Telecuba. Because of this shutdown, an estimated 30,000 Telecuba cards were rendered non-working. Staff contends that the affected customers must be refunded. Further, staff believes Telecuba should refund all revenues associated with the intrastate use of its cards for telecommunications services because the uncertificated provision of

such services was unlawful. All monies, plus interest, which cannot be refunded directly to affected customers should be forwarded by the Commission to the State Comptroller for deposit into the General Revenue Fund.

D.-G. Staff's Position on the Issues:

ISSUE 1: Is Telecuba, Inc. a "telecommunications company" under the terms of Chapter 364, Florida Statutes?

STAFF: Yes.

ISSUE 2: Did Telecuba operate as a telecommunications company in the state of Florida without a certificate of public convenience and necessity?

STAFF: Yes.

ISSUE 3: Should the Commission fine Telecuba for operating without a certificate?

STAFF: Yes.

ISSUE 4: If a fine is determined appropriate, what amount should be levied?

STAFF: Staff believes a \$25,000 fine is consistent with other prior proceedings of this nature.

ISSUE 5: Should the Commission order telecommunications companies in the state of Florida to cease the provision of intrastate telecommunications service to Telecuba?

STAFF: Yes. Telecuba continued to operate without a certificate in Florida after being notified that it needed a certificate, after having been sent an application for a certificate by staff, and after the Commission issued its Show Cause Order. Telecuba, to date, has not submitted an application for certification.

ISSUE 6: In light of all relevant circumstances, has Telecuba adequately implemented a refund mechanism for its prepaid calling cards?

STAFF: Staff does not have sufficient knowledge to make a determination on this issue. Staff's position is pending the results of discovery.

ISSUE 7: If Telecuba has not implemented an adequate refund mechanism, what refund mechanism is appropriate, pursuant to Rule 25-4.114, Florida Administrative Code?

STAFF: Telecuba should refund all monies, including interest, collected for intrastate revenues from its debit cards. It was not certificated to provide intrastate telecommunications service in this state.

ISSUE 8: Should the Commission order Telecuba to pay the Commission any monies that have been collected for the sale of debit cards purchased in the state of Florida that cannot be refunded directly to the purchasing customers? ***

STAFF: Yes. The Commission should forward these monies to the State Comptroller for deposit into the General Revenue Fund.

ISSUE 9: Whether the public interest is being served by the continuing deferral of the application for authority to provide interexchange services within the state of Florida filed March 6, 1996, by Telecuba's affiliated company, World Long Distance, Inc. (Docket No. 960295-TI)? ***

STAFF: Staff contests the validity of this issue to this proceeding.

*** The parties failed to agree on the validity or appropriateness of these issues to this proceeding.

H. Stipulation

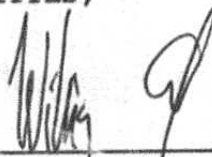
Staff is not aware of any issues that have been stipulated at this time.

STAFF'S PREHEARING STATEMENT
DOCKET NO. 960217-TI
PAGE 5

I. Pending Motions:

Staff has no pending motions at this time.

RESPECTFULLY SUBMITTED,



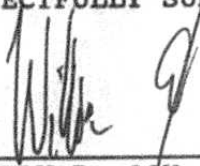
WILLIAM P. COX
Staff Counsel

Florida Public Service Commission
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(904) 413-6199

I. Pending Motions:

Staff has no pending motions at this time.

RESPECTFULLY SUBMITTED,



WILLIAM P. COX
Staff Counsel

Florida Public Service Commission
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(904) 413-6199

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

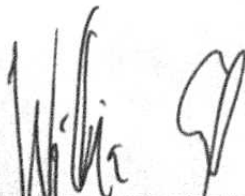
In Re: Initiation of show cause) DOCKET NO. 960217-TI
proceedings against Telecuba,)
Inc. for violation of Rule 25-) FILED: APRIL 4, 1997
24.470, F.A.C., Certificate of)
Public Convenience and Necessity)
Required.)
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Staff's Prehearing Statement, in the above referenced docket, has been furnished by U.S. Mail this 4th day of April, 1997, to the following:

Mitchell Brecher, Esquire
Fleischman Law Firm
1400 16th Street, NW
Washington, DC 20036

Telecuba, Inc.
444 Brickell Avenue
Suite 820
Miami, Florida 33131



WILLIAM P. COX
Staff Counsel

Florida Public Service Commission
Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
(904) 413-6204