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FLORIDA PUBLIC SERVICE COMMISSION
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Tallahassee, Florida 32399-0850

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9:30

MEMORANDUM

March 12, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)
FROM: DIVISION OF LEGAL SERVICES (COX) *MC*
DIVISION OF COMMUNICATIONS (BIEGALSKI) *V*
RE: DOCKET NO. 971299-TI - INITIATION OF SHOW CAUSE
PROCEEDING AGAINST PREPAY USA TELECOM FOR VIOLATION OF
RULE 25-24.470, FLORIDA ADMINISTRATIVE CODE, CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED, AND RULE
25-4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO
COMMISSION STAFF INQUIRIES.

AGENDA: 03/24/98 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\971299TI.RCM

CASE BACKGROUND

Staff received information that PrePay USA Telecom (PrePay) may be providing debit card services without a certificate from this Commission. Based on the information received by staff and the unresponsiveness of PrePay to staff's inquiries, staff opened this docket to investigate whether PrePay should be required to show cause why it should not be fined pursuant to Section 364.285, Florida Statutes, for apparent violations of Rule 25-24.470, Florida Administrative Code, and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. However, prior to show cause proceedings, PrePay submitted an offer to settle the case. (Attachment A, Page 4) Staff believes the following recommendations are appropriate.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by PrePay to resolve the apparent violations of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should accept PrePay's proposed settlement offer as resolution to the apparent violations of Rules 25-24.470 and 25-4.043, Florida Administrative Code. (Biegalski)

STAFF ANALYSIS: On February 5, 1997, staff received information that PrePay may be providing intrastate interexchange telecommunications service through the instrument of debit cards. Staff mailed a certified letter to PrePay informing it of its responsibility to obtain a certificate in order to provide debit card services. Staff attempted unsuccessfully to obtain a completed application from PrePay. On November 25, 1997, PrePay contacted staff to discuss staff's proposed show cause recommendation. PrePay stated that it "has not in the past, does not currently and has no intention of selling prepaid phone cards in the State of Florida". In fact, PrePay only had about \$6.00 worth of traffic generated in the State of Florida in the last month.

As the outcome of several discussions between staff and PrePay, the company decided to block the ability to make or complete a call within the State of Florida rather than submit to a fine it determined it could not absorb based on its business volume in Florida. Accordingly, the company proposed a settlement that can be summarized as follows:

- PrePay will immediately implement a policy not to offer intrastate telephone service in the State of Florida through the prepaid calling card service or any other product;
- PrePay will block the ability to complete intrastate calls in the State of Florida;
- PrePay will keep the 800 customer service number active in order to handle any customer inquiries that may arise due to the card being inoperable in the State of Florida.

Staff believes the terms of the settlement agreement as summarized in this recommendation are a fair and reasonable resolution of this matter. Therefore, staff believes the Commission should accept the settlement offer.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed. (Cox)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, this docket may be closed.



PREPAYUSA™ TELECOM
Changing the way America calls™

245 South Street
Morristown, New Jersey 07960

Tel. (201) 829-1300
Fax (201) 455-0546

February 12, 1998

Kelly Biegalski
State of Florida, Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399 - 0863

Dear Ms. Biegalski:

At your request, this letter is to inform you that PrepayUSA has ceased offering service in the State of Florida by blocking the 800 access number on its prepaid calling card. We have, however, not blocked the 800 access number for customer service. Any customer that attempts to make an intrastate call from within your state will get the IXC message informing them that the call cannot be made from that area code. The customer may then reach our operators and offers of assistance will be made ranging from a refund to the offer additional time as apology for any inconvenience, knowing the time can only be used outside of Florida.

As we have had only a couple of inquiries in the several weeks since the 800 number was disabled, I am confident that this matter will not cause any problems that cannot easily be remedied.

I hope this puts this whole matter to rest. I cannot impress upon you enough how much your focus should be on the "bodega" business. Watch out for those providers that are offering \$0.19 to \$0.29 per minute to Latin America and the Caribbean. When you think about the fact that on top of these absurdly low International rates, they are selling the card to the distributor with ridiculously high commissions, some in excess of 40% to 50%, there is no way they will be able to meet the carriers demand for payment and in the end it will be the customer that suffers when the cards are rendered useless by a carrier shutdown.

Anyway, I have said my peace, I am sure your perseverance will aid in legitimizing this industry. Good Luck.

Sincerely,

Malcolm Mead
Vice President