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Tallahassee, Florida 32399-0850

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March 26, 1998

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FPSC - Records/Reporting

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

FROM: DIVISION OF LEGAL SERVICES (BOWMAN) *RB MCB*
DIVISION OF COMMUNICATIONS (LEWIS) *CK.L*
DIVISION OF CONSUMER AFFAIRS (MCHARGUE) *DM*

RE: DOCKET NO. 971218-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST THE PHONE COMPANY (TEL-SAVE, INC. d/b/a NETWORK SERVICES, INC. d/b/a THE PHONE COMPANY) FOR VIOLATION OF RULE 25-4.043, RESPONSE TO COMMISSION STAFF INQUIRIES; FLORIDA ADMINISTRATIVE CODE.

AGENDA: 04-07-98 - AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\WP\971218.RCM

CASE BACKGROUND

On January 13, 1997, our staff notified Tel-Save, Inc. d/b/a Network Services, Inc. d/b/a The Phone Company, (TPC) that it selected TPC as one of the Interexchange Companies (IXCs) to be evaluated as part of the Commission's normal service quality evaluation. Staff informed TPC that it would have to provide billing information when the evaluation was completed. In an effort to expedite the process, staff made another request on January 23, 1997, by telephone and facsimile transmission. TPC responded on January 23, 1997, with a calling card and a pin number to allow staff to conduct their evaluation of timing, billing, call completion and transmission quality for 0+ and 1+ calls. Staff performed the 1+ call test on February 5, 1997, and the 0+ call test on February 17, 1997.

On June 20, 1997, staff notified TPC, by facsimile letter, that the Commission had not received previously requested billing records and asked that the records be forwarded as soon as possible. Staff made a subsequent request during a July 17, 1997,

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telephone conversation with Ms. Tina Tecce, TPC's Regulatory Affairs Manager. Staff made a third request for the billing records on July 29, 1997, by certified mail. TPC provided billing records for the 1+ evaluation calls on August 5, 1997, by facsimile transmission. On August 6, 1997, staff requested a written explanation as to why the 0+ billing records had not been provided. TPC responded by facsimile transmission, on August 7, 1997, stating that it had no record of 0+ calls being made on its network using the pin number and access code that it had assigned to staff.

On August 29, 1997, by certified mail, staff informed TPC of its intent to initiate a proceeding wherein TPC would be required to show cause why it should not be fined for failure to comply with staff inquiries in apparent violation of Rule 25-4.019, Florida Administrative Code. TPC provided the 0+ billing information on October 3, 1997. TPC appeared at our Agenda Conference on November 18, 1997, and asserted that its failure to provide the billing information was primarily due to irregularities with its billing vendor. On December 12, 1997, prior to the issuance of Order No. PSC-97-1575-PCO-TI(issued on December 15, 1997) TPC offered a settlement proposal (attachment 1) to resolve this matter.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by The Phone Company to resolve the apparent violations of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes.

STAFF ANALYSIS: TPC asserts that it has resolved the problems that caused the delay in responding to Commission staff inquiries. The specifics of the settlement proposal include:

- TPC employees are instructed to use overnight mail and faxes to ensure prompt response to Commission inquiries.
- TPC will voluntarily contribute \$5,000.00 (five thousand dollars) to the Commission to be forwarded to the Comptroller for deposit in the State General Revenue Fund.

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Staff believes the terms of the settlement agreement are reasonable.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, and upon remittance of the \$5,000 contribution, this docket may be closed. The contribution should be submitted to the Commission and forwarded to the office of the Comptroller for deposit in the State General Revenue Fund pursuant to Chapter 364.285 (1), Florida Statutes.

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ATTACHMENT 1

ARNOLD & PORTER

555 TWELFTH STREET, N.W.
WASHINGTON, D.C. 20004-1202

(202) 942-9000
FACSIMILE (202) 942-8888

RICHARD M. FIRESTONE
(202) 942-5820

NEW YORK
DENVER
LOS ANGELES
LONDON

December 12, 1997

John Bowman, Esq.
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. [REDACTED]
Tel-Save, Inc. d/b/a The Phone Company

Dear Mr. Bowman:

I am writing to you on behalf of Tel-Save, Inc. d/b/a The Phone Company ("TPC") to propose a settlement agreement for Docket No. 971218-TI. While admitting no liability or wrongdoing, TPC proposes to pledge to reply promptly to all future inquiries of the staff of the Florida Public Service Commission (the "Commission") and to contribute \$5,000 to the Commission for forwarding to the Office of the Comptroller for deposit in the State General Revenue Fund.

On November 18, 1997, the Commission voted to initiate a show cause proceeding against TPC for apparently violating Rule 25-4.043, Florida Administrative Code.¹ In recommending initiation of the show cause proceeding, the Commission's staff noted delays in receiving billing records in connection with a

¹ Rule 25-4.043, Florida Administrative Code, provides:

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.

John Bowman, Esq.
December 13, 1997
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service quality evaluation and delays in receiving responses to consumer complaints.

TPC believes that it made good faith efforts to provide the information that the Commission requested and did not knowingly or willfully violate any statute, rule, regulation or order, or engage in any wrongdoing. With regard to producing billing records, the company that provides billing services to TPC failed to heed TPC's repeated requests to produce in a timely fashion the billing records that the Commission needed. Production of billing records also was delayed because certain correspondence that was intended for TPC was misdirected to an unrelated entity with a similar name. With regard to responding to consumer complaints, TPC employees completed and mailed all responses in advance of the Commission's deadline. However, since these responses were not transmitted by fax or overnight courier, apparently certain responses were time-stamped as received by the Commission a few days late.

TPC believes that the problems that caused the delays that the Commission staff cited have been resolved. With regard to producing billing records, TPC has forcefully reminded its billing vendor of its responsibility to produce all billing records promptly, and is beginning to provide its own billing services on-line to customers through America Online, Inc. In addition, confusion regarding TPC's address apparently has been cleared up. With regard to consumer complaints, TPC employees have been instructed to cause all responses to consumer complaints to be received by the Commission on or before the Commission's deadline and to use faxes and overnight couriers when necessary to ensure timely delivery.

TPC recognizes that unintended delays in receiving information nonetheless create inconvenience and additional expense for the Commission and its staff. Thus, without admitting any liability or wrongdoing, TPC proposes to pledge to reply promptly to all future inquiries of the Commission's staff and to contribute \$5,000 to the Commission for forwarding to the Office of the Comptroller for deposit in the State General Revenue Fund.

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ARNOLD & PORTER

John Bowman, Esq.
December 12, 1997
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Please contact me at (202) 942-5820 to answer any questions and to discuss this matter further.

Very truly yours,



Richard M. Firestone

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Date 11/1/77

Number of Originals 5 Copies Per Original _____
 Requested By W. S. Smith

Item Presented

____ Agenda For (Date) _____ Order No. _____ In Docket No. _____
 ____ Notice of _____ For (Date) _____ In Docket No. _____
 ____ Other _____

Special Handling Instructions

Distribution/Mailing

Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>19</u>	<u>Commission Offices</u>	<u>1</u>	_____
_____	<u>Docket Mailing List - Mailed</u>	_____	_____
_____	<u>Docket Mailing List - Forward</u>	_____	_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification

Job Number 150 Verified By W.S.
 Date and Time Completed 12-18 Job Checked For Correctness and Quality (Initial) _____

Mail Room Verification

Date Mailed _____ Verified By _____