

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

RECEIVED

MEMORANDUM

MARCH 26, 1998

MAR 26 1998

1:45
FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Dji*
DIVISION OF LEGAL SERVICES (COX) *WD*
WPC *rcs*

RE: DOCKET NO. 971648-TI - LONG DISTANCE DIRECT, INC. -
INITIATION OF SHOW CAUSE PROCEEDINGS FOR VIOLATION OF
RULES 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF
INQUIRIES, 25-4.118, F.A.C., INTEREXCHANGE CARRIER
SELECTION, AND 25-24.485(1)(I), F.A.C., TARIFFS

AGENDA: APRIL 7, 1998 - REGULAR AGENDA - SHOW CAUSE - INTERESTED
PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\971648TI.RCM

CASE BACKGROUND

Long Distance Direct, Inc. (LDDI) is a provider of interexchange telecommunications services, holder of certificate number 3524, and was certificated on February 28, 1994.

On October 28, 1996, staff received a consumer complaint from Days Inn OceanFront Resort (Days Inn) in Jacksonville. The consumer alleged that LDDI switched the hotel's long distance service without proper authorization. In addition, the consumer advised staff that it had operator screening, yet LDDI billed the hotel for operator assisted calls. Initially, it was staff's understanding that Days Inn only requested credit for all operator assisted calls. Staff contacted LDDI and requested a response by November 19, 1996.

On December 10, 1996, LDDI responded to staff that Pam Dolan, Days Inn's bookkeeper, authorized the switch on August 22, 1994, which was verified by an independent 3rd party verifier. LDDI also advised that Days Inn was mailed a "Welcome Kit" on September 15, 1994, which included a toll-free number to call if the customer did not wish to switch. LDDI also indicated that on at least two other occasions, Ms. Dolan was contacted by LDDI, and both times Ms.

DOCUMENT NUMBER DATE

03603 MAR 26 98

FPSC-RECORDS/REPORTING

DOCKET NO. 971648-TI
DATE: MARCH 26, 1998

Dolan advised that she was satisfied with LDDI's service. LDDI advised staff that Daniel Blankenship requested cancellation of service on November 27, 1996 on behalf of Days Inn. LDDI concluded that since the customer had used the service, received and paid bills for 18 months, Days Inn is responsible for outstanding charges totaling \$176.37.

Staff had several other contacts with LDDI before the company stopped responding to staff's inquiries. Staff wrote LDDI on June 20, 1997 and followed up with a telephone call on July 7, 1997. As of this date, the company has failed to respond despite a verbal promise to provide a written response. In addition, staff has had many contacts with Days Inn and BellSouth Telecommunications, Inc., in an attempt to resolve Days Inn's complaint. Based upon the facts known, it is staff's opinion that LDDI has violated Commission rules. Therefore, staff believes the following recommendations are appropriate.

DOCKET NO. 971648-TI
DATE: MARCH 26, 1998

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order Long Distance Direct, Inc. to show cause why it should not have Certificate Number 3524 canceled or be fined \$1,500 for apparent failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should order Long Distance Direct, Inc. to show cause in writing within 20 days of the issuance of the show cause order why it should not have its certificate canceled or be fined \$1500 for apparent failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Any collected fine 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. (Isler)

STAFF ANALYSIS: Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, states:

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.

Staff was in contact with LDDI several times during the pendency of this complaint. LDDI responded after the 15 days each time except twice. One time LDDI responded timely and the other, LDDI did not respond at all to staff's letter.

For example, staff initially wrote LDDI on November 4, 1996, and requested a response by November 19, 1996. LDDI's response was received December 10, 1996. Staff's follow up request for additional information was mailed on December 13, 1996, and a response was requested by December 30, 1996. LDDI's response was received on January 7, 1997. The company appears to have chosen to ignore staff's follow up correspondence. Therefore, staff believes the show cause order is appropriate.

DOCKET NO. 971648-TI
DATE: MARCH 26, 1998

ISSUE 2: Should the Commission order Long Distance Direct, Inc. to show cause why it should not have Certificate Number 3524 canceled or be fined \$10,000 for apparent failure to comply with Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection?

RECOMMENDATION: Yes. The Commission should order Long Distance Direct, Inc. to show cause in writing within 20 days of the effective date of the order why it should not have its certificate canceled or be fined \$10,000 for apparent failure to comply with Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection. Any collected fine 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. (Isler)

STAFF ANALYSIS: Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection, states:

(1) The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization. A local exchange company (LEC) shall accept PIC change requests by telephone call or letter directly from its customers.

(6) The IXC shall provide the following disclosures when soliciting a change in service from a customer:

(a) Identification of the IXC;

(b) That the purpose of visit or call is to solicit a change of the PIC of the customer;

(c) That the PIC can not be changed unless the customer authorizes the change; and

(d) Any additional information as referenced in Rule 25-24.490(4).

On October 28, 1996, staff received a consumer complaint from Days Inn OceanFront Resort (Days Inn) in Jacksonville. The consumer alleged that LDDI switched the hotel's long distance service without proper authorization. In addition, the consumer advised staff that it had operator screening, yet LDDI billed the hotel for operator assisted calls. Initially, it was staff's

DOCKET NO. 971648-TI
DATE: MARCH 26, 1998

understanding that Days Inn only requested credit for all operator assisted calls. At a later date, Days Inn informed staff that LDDI was not charging the rates listed in its tariffs.

On November 4, 1996, staff wrote LDDI and requested an investigation and response by November 19, 1996. LDDI's response was received on December 10, 1996. The company stated that the hotel's bookkeeper, Pam Dolan, authorized the switch on August 22, 1994, and that the switch was verified by an independent 3rd party. LDDI advised staff that Days Inn was mailed a Welcome Kit on September 15, 1994 that included a toll free number to call if the customer did not wish to switch. LDDI also advised that Daniel Blankenship, a representative of Days Inn, requested cancellation of service on November 27, 1996. LDDI concluded that since the customer had used the service, received, and paid bills for 18 months, Days Inn was responsible for outstanding charges totaling \$176.37. According to LDDI, the total outstanding amount has increased to approximately \$2,470, which includes interest and late payment charges.

In follow up contacts with LDDI, the company provided staff with copies of its telemarketing script (ATTACHMENT A), 3rd party independent verifier script (ATTACHMENT B), and a transcription of the 3rd party independent verification call between the verifier and Ms. Pam Dolan of Days Inn (ATTACHMENT C).

The company's telemarketing script states, in pertinent part:

I am calling from Long Distance Direct regarding a rate reduction program using the AT&T Network.

In staff's opinion, to be in compliance with Commission Rule 25-4.118(6)b), Florida Administrative Code, the company should have stated:

I am calling from Long Distance Direct and the purpose of my call is to solicit a change of your long distance carrier.

LDDI's script goes on to state:

I am with Long Distance Direct a reseller of AT&T Network Services and would like to tell you about a rate reduction program utilizing the AT&T Network. The program allows you to use the AT&T

DOCKET NO. 971648-TI
DATE: MARCH 26, 1998

Network and receive rates that are 15%-18% lower than what AT&T can offer you directly.

In that one sentence, the telemarketer uses AT&T's name four times and uses its own name only once. Staff can certainly understand how a consumer could believe that they are speaking with a representative of AT&T.

The company also provided staff with its 3rd party verification script (ATTACHMENT B) and a transcript of the 3rd party verification call between Ms. Pam Dolan of Days Inn and the verifier (ATTACHMENT C). The following are direct quotes from the company's transcript:

Pam: and this isn't going to interfere with our other carrier?

Ver: No.

Pam: In any way.

Ver: Just, will be just discontinuing on these lines that you have on this line that you have on AT&T. (sic) It won't interfere with your other carrier at all.

Pam: Okay.

Ver: Okay, that's about all the information I need. My name is Anne Annason, I'm with Long Distance Direct. You'll start to receive your savings in about thirty days. You'll be receiving your bill directly from the AT&T Bill Manager Service and if you have any questions, you can just call 800 number on your bill. Thanks again for your time.

It is staff's opinion from the transcript that the 3rd party verifier did not use the script, and that it appears Ms. Dolan was verifying that she was not changing Days Inn's long distance carriers. We conclude that the required verification did not occur and, therefore, recommend that LDDI show cause why it should not be fined or cancelled for its alleged rule violation.

DOCKET NO. 971648-TI
DATE: MARCH 26, 1998

ISSUE 3: Should the Commission order Long Distance Direct, Inc. to show cause why it should not have Certificate Number 3524 canceled or be fined \$250 for apparent failure to comply with Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs?

RECOMMENDATION: Yes. The Commission should order Long Distance Direct, Inc. to show cause in writing within 20 days of the effective date of the order why it should not have its certificate canceled or be fined \$250 for apparent failure to comply with Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs. Any collected fine 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. (Isler)

STAFF ANALYSIS: Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs, states in pertinent part:

Companies shall charge only the rates contained in their tariffs.

During the pendency of Days Inn's complaint, staff learned that Long Distance Direct was not billing according to its tariffs. For example, Section 4.2 of LDDI's tariff states that customers will be billed \$0.70 for "each directory assistance call. The directory assistance charge applies to each call regardless of whether the directory assistance bureau is able to furnish the requested telephone number." (ATTACHMENT D)

The customer's March 12, 1996, bill shows a directory assistance call was \$2.21, which appears to be a direct violation of what LDDI's tariff states. (ATTACHMENT E)

In addition, using the same bill as an example, LDDI billed the customer a 7.2 minute direct dialed call to Daytona Beach and charged Days Inn \$2.09. LDDI's tariff, Section 4.1.4.A, states the evening rate is \$.0618 for the initial 18 seconds and \$.0206 for each additional six seconds. (ATTACHMENT F) According to staff's calculations, Days Inn should have been billed \$1.48 for the 7.2 minute call, computed as follows:

\$.0618 x 1	=	\$0.06
\$.0206 x 69	=	<u>\$1.42</u>
Total		\$1.48

Therefore, it is staff's belief the LDDI should be ordered to show cause why it should not be fined or cancelled for its alleged rule violation.

DOCKET NO. 971648-TI
DATE: MARCH 26, 1998

ISSUE 4: If the Commission approves staff's recommendation in Issue 2 or 3, should the Commission order Long Distance Direct, Inc., to show cause in writing why it should not rerate all direct dialed calls, credit or refund the difference between the customer's preferred carrier's rates, plus interest, and LDDI's rates, credit or refund all directory assistance and operator assisted calls, plus interest, for the entire time that Days Inn was presubscribed to LDDI as its long distance provider, and remove all late payment fees and charges?

RECOMMENDATION: Yes, the Commission should order Long Distance Direct, Inc. to show cause why it should not rerate all direct dialed calls, credit or refund the difference between the customer's preferred carrier's rates, plus interest, and LDDI's rates, credit or refund all directory assistance and operator assisted calls, plus interest, for the entire time that Days Inn was with LDDI, and remove all late payment fees and charges. Therefore, LDDI should be ordered to undertake an analysis of its bills to Days Inn and to provide the results to the Commission within 60 days of the disposition of Issue 2. (Isler)

STAFF ANALYSIS: If the change by LDDI is unauthorized, Days Inn is entitled to have its charges rerated to those of its preferred carrier. In addition, credits/refunds should be issued by LDDI for any charges in excess of the amounts set forth in its tariff. Therefore, LDDI should be ordered to undertake an analysis of its bills to Days Inn and to provide the results to the Commission within 60 days of the disposition of Issue 2.

DOCKET NO. 971648-TI
DATE: MARCH 26, 1998

ISSUE 5: Should this docket be closed?

RECOMMENDATION: If staff's recommendations in Issue 1, 2, or 3 are approved, then Long Distance Direct, Inc. will have 20 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have its certificate canceled. If Long Distance Direct, Inc. timely responds to the show cause order this docket should remain open pending resolution of the show cause proceeding. If LDDI does not respond to the Commission's Order to Show Cause, the fines should be deemed assessed. Staff recommends that if LDDI fails to respond to the Order to Show Cause, and the fines are not received within five business days after the expiration of the show cause response period, LDDI's certificate should be canceled and this docket should be closed. (Cox)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, then Long Distance Direct, Inc. will have 20 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have its certificate canceled. If Long Distance Direct, Inc. timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If LDDI does not respond to the Commission's Order to Show Cause, the fines should be deemed assessed. Staff recommends that if LDDI fails to respond to the Order to Show Cause, and the fines are not received within five business days after the expiration of the show cause response period, LDDI's certificate should be canceled and this docket should be closed.

**LONG DISTANCE DIRECT
TELEMARKETING SALES SCRIPT**

Good _____. My name is _____, I am calling from Long Distance Direct regarding a rate reduction program using the AT&T Network. Who do I need to speak to regarding this?

Who am I speaking with?

(Customer's Name), I am with Long Distance Direct a reseller of AT&T Network Services and would like to tell you about a rate reduction program utilizing the AT&T Network. The program allows you to use the AT&T Network and receive rates that are 15%-18% lower than what AT&T can offer you directly.

This program is only available for businesses that use over \$50 per month in long distance service. Do you know how much you spent on the long distance portion of your phone bill last month or that portion outside your state and local area code?

Do your long distance charges come on your local phone bill or do you receive a separate bill for your long distance charges? (If they are guessing they might not qualify or you may need to ask again)

Is it possible to take a moment and get that (those) bill(s) handy? Thanks. OK, on that bill how much did you spend on the long distance portion of your phone bill last month? (If more than \$50, Ok to proceed).

Would you like to sign up for this program provided by Long Distance Direct and utilizing the AT&T Network? Do you have any other telephone or fax numbers?

OK, and (Customer's Name) are you authorized to make the transfer of service to Long Distance Direct? If you are not available, who else can we contact in order to provide customer service?

On your local phone bill, you will see a three digit code which appears after your account number. Can you read that entire number including those three numbers to me? OK, I would just like to confirm your Company Name, Physical address, Do you have any other locations? Is this the same address to be used for mailing? Now I need you to spell your full name and title for me. Thank you. I just also want to be sure that you do not currently have a term plan or contract with AT&T. Do you know if you have a contract or term plan?

Now, (Customer's Name) I am going to process your request for service with Long Distance Direct's National Processing Center. You will be receiving a confirmation call from there probably within the hour but definitely before the end of the day.

You will receive your savings within 30 days. If you have any questions, our toll-free number is located on the upper right hand corner of the invoice. Thank you for your time and enjoy your savings.

12/24/96

**LONG DISTANCE DIRECT
TELEMARKETING VERIFICATION SCRIPT**

AS YOU ARE DIALING THE CONTACT NUMBER, PLEASE STATE OUT LOUD THE CUSTOMER NAME, AREA CODE AND PHONE NUMBER.

Hello, may I speak with (Customer's Name)? Hello, (Customer's Name), this is _____ calling from Long Distance Direct Verification Center and I am recording and verifying the account information of the (Company Name) and I am speaking with (Customer's Name) who is the (Customer's title) is that correct?

OK, (Customer's Name), I have your address as... and your main billing telephone number as... and beyond the main number would you like the rate reduction program of 15-18% applied to those additional lines also? Is that correct? and those lines are...(read all lines to customer).

I would also like to verify that you have not signed a contract for any type of term plan with AT&T like CustomNet, UniPlan or Small Business Option.

Also, have you ever done business with a reseller before?

On your phone bill did you read the sales representative your customer code? And that number is ...(Let the customer read the code for each BTN)

On that bill, what is the amount of long distance charges on your most recent statement? Now that \$ ___ are those current charges only? Great!

(Customer's Name), it will take approximately three weeks for the rate reduction program to go into effect. Your bill will now come from Long Distance Direct and it will say "utilizing the AT&T Network." You will also be receiving a welcome call and welcome kit shortly.

Now, (Customer's Name) as (Customer's Title) you can approve the rate reduction program to Long Distance Direct utilizing the AT&T Network, Is that correct? Also, if you are not available, who else at your company can we contact for customer service.

(Customer's Name), Long Distance Direct will now be providing your customer service and billing and the long distance service will utilize the AT&T Network.

OK, great! Our 800 number will be on the monthly statement. Thank you for your time and enjoy your savings.

12/24/96



Verifier: I just need to record this to make sure you did dial correctly, is that alright?

Pam: That's fine.

Ver: And what is the current business name, name? Excuse me.

Pam: Days Inn oceanfront.

Ver: And that's at 1031 First Street

Pam: Right

Ver: Jacksonville, Florida, 32250.

Pam: Yes

Ver: Is that the billing address also.

Pam: Yes it is.

Ver: Okay, and what are the lines that are on AT&T?

Pam: Our WATTS line.

Ver: What number is that?

Pam: 800-321-2037

Ver: Do you have any regular lines on that?

Pam: Yes some of our direct lines from the 904-249-7231 go out at, over ATT.

Ver: Okay, do you have any other lines besides them?

Pam: No.

Ver: Do you think you would do seventy dollars or more on that 7231, cause this would just be the out of state long distance or wouldn't count for the 800 number.

Pam: Yes.

Ver: Okay, alright, and your full name please.

Pam: Pam Dolan (spelling) D O L A N.

Ver: That was Pam?

Pam: Right.

Ver: Okay, and your position is the business controller and you have the authority to make this decision?

Pam: Yes I do.

Ver: Okay, and who is your local phone company.

Pam: Southern Bell.

Ver: Do you happen to have a Southern Bell Bill handy? Just need three digit number out there to get this processed.

Pam: Hold on.

Ver: Sure. (long pause)

Pam: Kaye, the number is three (3), one (1), nine (9).

Ver: Okay.

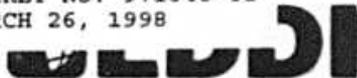
Pam: and this isn't going to interfere with our other carrier?

Ver: No.

Pam: In anyway.

Ver: Just, will be just discontinuing on these lines that you have on this

One Blue Hill Plaza
First Floor, NY 10965
☎ :914-620-0765
☎ :914-620-0709
☎ :www.lddi.com



you have on AT&T. It won't interfere with your other carrier at all.

Pam: Okay.
Ver: Okay, that's about all the information I need. My name is Anne Annason, I'm with Long Distance Direct. You'll start to receive your savings in bout thirty days. You'll be receiving your bill directly from the AT&T Bill Manager Service and if you have any questions, you can just call 800 number on your bill. Thanks again for your time.

Pam: Okay.
Ver: Have a great day.
Pam: Thank you.
Ver: Bye.
Pam: Bye.

LONG DISTANCE DIRECT, INC.

FLAPSC TARIFF NO. 1
ORIGINAL SHEET 21

SECTION 4 - RATES

4.1.4 Florida Intrastate Interlata Rates

**4.1.4.A Schedule A
(dial-up to dial-up service)**

	<u>Day</u>		<u>Eve</u>		<u>Night</u>	
	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$
All	0.0537	0.0179	0.0618	0.0206	0.0618	0.0206

4.1.4.B Schedule B

(Dial-up to dedicated or dedicated to dial-up service)

	<u>Day</u>		<u>Eve</u>		<u>Night</u>	
	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$
All	0.0456	0.0152	0.0357	0.0119	0.0357	0.0119

**4.1.4.C Schedule C
(dedicated to dedicated service)**

	<u>Day</u>		<u>Eve</u>		<u>Night</u>	
	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$	INITIAL 18 SEC. \$	ADD'L 6 SEC. \$
All	0.0174	0.0058	0.0123	0.0041	0.0123	0.0041

Issued: November 24, 1993

Effective: FEB 26 1994

By:

Steven Lampert, President
Long Distance Direct, Inc.
1 Blue Hill Plaza
Pearl River, New York 10965