

REVISED

Talbott  
Vandiver

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

RECEIVED

MAY - 7 1998

12:20  
FPSC - Records/Reporting

MEMORANDUM

May 7, 1998

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

FROM: DIVISION OF LEGAL SERVICES (BEDELL) CB MCB  
DIVISION OF COMMUNICATIONS (BIEGALSKI) FB  
DIVISION OF CONSUMER AFFAIRS (MITH) JFD

RE: DOCKET NO. 971490-TI - INITIATION OF SHOW CAUSE  
PROCEEDING AGAINST EXCEL TELECOMMUNICATIONS, INC. FOR  
VIOLATION OF RULE 25-4.118, FLORIDA ADMINISTRATIVE CODE,  
INTEREXCHANGE CARRIER SELECTION

AGENDA: 05/19/98 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\971490TI.RCM

CASE BACKGROUND

On March 21, 1990, the Commission granted Excel Telecommunications, Inc. (Excel) Certificate Number 2440 to provide intrastate interexchange telecommunications service. Excel reported gross operating revenues of \$73,584,960 and intrastate revenues of \$16,088,967 on its Regulatory Assessment Fee Return for the period January 1, 1997, through December 31, 1997. As a provider of interexchange telecommunications service in Florida, Excel is subject to the rules and regulations of this Commission.

From April 1, 1996, until April 9, 1998, the Division of Consumer Affairs received a total of 37 complaints that have been determined to be apparent unauthorized carrier change (slamming) infractions in violation of Rule 25-4.118, Florida Administrative Code. There are additional complaints related to slamming that are either pending response from the company or closure in the Division of Consumer Affairs.

DOCUMENT NUMBER-DATE

05158 MAY-7 98

FPSC-RECORDS/REPORTING

DOCKET NO. 971490-TI  
DATE: May 7, 1998

In 1995, show cause proceedings were initiated against Excel for apparent slamming violations. On March 21, 1996, in Order No. PSC-96-0401-AS-TI, the Commission approved a \$10,000 settlement offer in Docket No. 950468-TI.

Based on the number of complaints, it appears as if the safeguards agreed to in the previous settlement were not sufficient. In this regard, staff opened this docket to investigate whether Excel should be required to show cause why it should not be fined or have its certificate canceled, pursuant to Section 364.285, Florida Statutes. Staff has met with Excel on two occasions, but to date, settlement negotiations have been unsuccessful. Therefore, staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order Excel to show cause why it should not have Certificate Number 2440 canceled or be fined for apparent violation of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection?

RECOMMENDATION: Yes. The Commission should order Excel to show cause in writing within 20 days of the effective date of the order why it should not have Certificate Number 2440 canceled or be fined \$30,000 per apparent violation for a total of \$1,140,000. Said fine is for apparent violation of Rule 25-4.118, Florida Administrative Code. 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. (Biegalski)

STAFF ANALYSIS: Excel's only method of obtaining new long distance customers is through multi-level marketers, who solicit on a face-to-face basis. Staff reviewed the numerous complaints received in the Division of Consumer Affairs regarding Excel's alleged slamming infractions. Staff's review has identified complaints from consumers regarding unauthorized carrier changes due to forged LOAs and keypunch errors. Both of these problems were identified in the previous docket as well.

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Rule 25-4.118(2), Florida Administrative Code, states in pertinent part,

A LEC shall also accept PIC change requests from a certificated interexchange company (IXC) acting on behalf of the customer. A certified IXC that will be billing in its name may submit a PIC change request, other than a customer-initiated PIC change, directly or through another IXC, to a LEC only if it has certified to the LEC that at least one of the following actions has occurred prior to the PIC change request:

(a) the IXC has on hand a ballot or letter from the customer requesting such change;

Staff is concerned that Excel has not taken adequate steps to prevent unauthorized carrier changes and to ensure compliance with the rules of the Florida Public Service Commission.

Examples of complaints received from consumers include the following:

On February 5, 1998, Mr. Jon Wood contacted staff and stated that his long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Mr. Wood. The company considered it to be valid and forwarded it for processing. Staff contacted Mr. Wood on April 14, 1998 in order to verify the LOA. Mr. Wood stated that the social security number listed on the LOA is incorrect and the signature on the LOA is a forgery. (Attachment A, Pages 6-12)

On August 6, 1997, Ms. Nancy Peterson contacted staff and stated that her long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Ms. Peterson. The company considered it to be valid and forwarded it for processing. Staff contacted Ms. Peterson on April 14, 1998 in order to verify the information on the LOA. Ms. Peterson stated that the social security number was incorrect and that the signature was a forgery. (Attachment B, Pages 13-18)

On November 17, 1997, Ms. Betty Smith contacted staff and stated that her long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Ms. Smith. The company considered it to be valid and forwarded it for processing. Ms. Smith informed staff that the signature on the LOA is a forgery. (Attachment C, Pages 19-24)

Excel has not satisfied staff that it is in compliance with the Commission's rules. Accordingly, by Section 364.285, Florida

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Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each day a violation continues, or cancel its certificate, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Staff believes that Excel's apparent conduct in switching PICs without customer authorization has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as Excel's conduct at issue here, would meet the standard for a "willful violation."

Based on the 37 apparent unauthorized carrier change infractions and Excel's complaint history, staff believes that Excel does not have adequate safeguards to protect consumers from unauthorized carrier changes. Further, based on Excel's previous history and its particular marketing method, staff recommends that a fine of \$30,000 per apparent violation is more appropriate than the \$10,000 fine per apparent violation approved in previous dockets. Accordingly, staff believes that there is sufficient cause to order Excel to show cause in writing within 20 days of the effective date of the order why it should not be fined \$30,000 per apparent infraction for a total of \$1,110,000 or have its certificate canceled for its apparent violations of Rule 25-4.118, Florida Administrative Code.

DOCKET NO. 971490-TI  
DATE: May 7, 1998

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, Excel 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. If Excel timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If Excel does not respond to the Commission's Order to Show Cause, the penalties should be deemed assessed. If Excel 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, Excel's certificate should be canceled and this docket closed administratively. (Bedell)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, then Excel 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 Excel timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If Excel does not respond to the Commission's Order to Show Cause, the fines should be deemed assessed. If Excel 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, Excel's certificate should be canceled and this docket closed administratively.



Name WOOD, L.C.  
Address 151 W. GEORGE AVENUE  
City/Zip MAITLAND 32751 County ORANGE  
Account Number \_\_\_\_\_  
Caller's Name JOHN C. WOOD

Company EXCEL TELE APPLICATIONS, INC.  
Attn. JOEL BALLEW 2033131  
Consumer's Telephone # (407)-645-2895  
Can Be Reached (407)-645-2895  
Bois \_\_\_\_\_  
Internal Conf. \_\_\_\_\_

Customer states that he was switched from AT&T to Excel without authorization or request. Customer states he has returned to his carrier of choice. Please investigate this matter, contact the customer and provide me with a detailed written report including LOA/Tape and applicable credits for switching fees, as well as an adjustment of rates to that of the customer's preferred carrier by the date below.

02/24/98 Received report with explanation LOA and \$10.14 credit. A letter was sent to the customer.

02/25/98 Closed by e-mail letter to the customer.

Request No. 2033131  
By REP Jim 4:39 PM date 02/05/98  
to CO Jim FAX date 02/05/98  
Type S Form INTERNET  
Category \_\_\_\_\_  
Instruction LS-13C  
Closed by REP date 02/25/98  
Reply Received I  
**CONSUMER REQUEST**

**FLORIDA PUBLIC SERVICE COMMISSION**

2549 SEBASTIAN OAK BOULEVARD  
TALLAHASSEE, FL 32399-0839  
904-413-6100

PLEASE RETURN THIS FORM WITH REPORT OF ACTION TO:

ELLEN PLENO

DUE: 02/24/98

ATTACHMENT A  
DOCKET NO. 971490-TT  
MAY 7, 1998

nted by Ellen Plendl 2/25/98 7:53am

-----  
From: Ellen Plendl  
To: MAIL @ SMTP(jon\_wood@juno.com)  
Subject: Slamming Inquiry  
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-----NOTE-----  
Mr. Jon C. Wood

Dear Mr. Wood:

We have reviewed your complaint against Excel Communications, Inc.

In an effort to resolve your complaint, we contacted the company and requested a detailed written report on your concerns. It is my understanding that a company representative contacted you to discuss this matter. Based on a review of the information provided to the Florida Public Service Commission (PSC), it appears that the company did not obtain the necessary information to make a switch in your telephone service. The company will go on public record with an infraction against the Florida Administrative Code rules. Excel has sent a credit in the amount of \$10.14 to your local telephone company. This credit should appear in one to two billing cycles.

I share your concerns about unauthorized telephone company changes, or "slamming." The Florida Public Service Commission (PSC) receives more complaints about slamming than any other issue. That is why the PSC is currently developing new rules for the communications industry that will curb slamming.

Customers often tell us that changes in their telephone service were not authorized. Therefore, the PSC is reviewing its rules to ensure that each change is adequately validated by the company claiming a subscriber. The PSC wants to make sure that consumers have an opportunity to tell us about the problems they have encountered with companies changing their preferred local or long distance company. The PSC held 10 rule development workshops in various locations throughout Florida. Commissioners listened to consumers' testimony regarding their slamming experiences and provided consumers with information on how to guard against this unauthorized practice. After considering all public testimony and evidence obtained during the rule development workshops, a formal hearing was held on February 6, 1998, with a second hearing held on February 16, 1998. The PSC staff will now prepare a recommendation in this case for a decision by the Commissioners at a future agenda conference in Tallahassee.

Thank you for the opportunity to address your concerns. If you wish to discuss this or have any questions, please let me know. You may reach me at 1-800-342-3552 or at eplendl@psc.state.fl.us.

Sincerely,

Ellen Plendl  
Regulatory Specialist  
Division of Consumer Affairs

**EXCEL**  
COMMUNICATIONS, INC.

February 24, 1998

On file with the Jurors

Ellen Pleadi  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Request No. 2033131  
Jon C. Wood

Dear Mr. Pleadi:

On February 5, 1998, Excel Telecommunications, Inc. received a complaint filed with your office by Mr. Jon C. Wood.

In his complaint, Mr. Wood indicates that his long-distance service was switched from AT&T to Excel without his authorization. Your office is requesting that Excel provide proof of the authorization to switch Mr. Wood's long-distance service and that the appropriate credit adjustments be issued to his account.

Excel's records indicate that an account was established for Jon Wood on January 29, 1998, after we received a signed application (attached) requesting Excel's long-distance, My800™ and calling card services for telephone number (407) 645-2895. On February 5, 1998, Excel received a mechanized transmission from Sprint United telephons indicating that the long-distance service for (407) 645-2895 was switched to another carrier; consequently, Mr. Wood's account was canceled in our database on February 6, 1998.

Excel Telecommunications is a long distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes very seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.



FEB -24 9811021 10:41

TEL: 912 800 8121


P. 003

In an effort to resolve this matter, a credit adjustment of \$10.14 was issued to Mr. Wood's canceled account on February 24, 1998. This credit adjustment reflects a re-rate of Excel's direct-dialed long-distance rates to those of AT&T for calls placed from February 3, 1998, through February 4, 1998, and reimburses him for the switching fees assessed by Sprint United Telephones as a result of this matter. The credit adjustment should appear on his Sprint United Telephones invoice within 60 days.

On February 23, 1998, I contacted Mr. Wood and informed him of the credit adjustment. I assured Mr. Wood that it is never Excel's intention to establish service without the appropriate consent, and I apologized for any inconvenience this matter has caused. Mr. Wood stated that he is satisfied with our resolution.

If you have any questions, please contact me at (1100) 783-2909.

Sincerely,

  
Matthew Ramsey  
Regulatory Analyst

c: Mr. Jon C. Wood  
151 West George Avenue  
Maitland, FL 32751

FEB. -14 9811021 16:42

TEL: 972 863 8721

P. 004



REF CONTROL NO. 3097360300396776349



### LONG DISTANCE SERVICE REQUEST FORM (SRF)

**YOU MUST COMPLETE A SEPARATE SERVICE REQUEST FORM FOR EACH TELEPHONE BILL RECEIVED**

PLEASE / CHECK TO INDICATE CUSTOMER STATUS  
 NEW CUSTOMER       EXISTING CUSTOMER

Please print customer's information exactly as it appears on their phone bill.

BILLING TELEPHONE NUMBER (REQUIRED)

4076452895

SECOND TELEPHONE LINE ON SAME BILL

THIRD TELEPHONE LINE ON SAME BILL

PLEASE FILL OUT BOXED AREA NEATLY MAKING SURE NOT TO WRITE OUTSIDE OF BOXES AS SHOWN

ABC5551342

TO INSURE PROPER PROCESSING OF YOUR INFORMATION COMPLETE AS SHOWN IN BLACK OR BLUE INK AND PRINT IN CAPITAL LETTERS

LAST NAME

WOOD

FIRST NAME

JOHN

151 WEST

ADDRESS LINE 1

GEORGE QUE

ADDRESS LINE 2

CITY

OMAHAN

STATE

FL

ZIP CODE

32751

SOCIAL SECURITY NUMBER

301-56-2312

INTELLIGENCE SERVICE

PLEASE PRINT THE BOX TO INDICATE SERVICE. I understand that I am not to be contacted by the company for any reason other than to provide service. I understand that I am not to be contacted by the company for any reason other than to provide service. I understand that I am not to be contacted by the company for any reason other than to provide service.

#### SELECT YOUR SERVICE

**Excel's Direct Deal™** I understand I will be enrolled in the Direct Deal calling program designed especially for residential customers. All calls will be billed at 60-cents per minute and charged as a 30-day bill with automatic and convenient bill payment. Ad I will be charged a \$1.00 monthly service fee.

**ExcelPlus™** I understand I will be enrolled in the ExcelPlus calling program designed especially for residential customers who desire the benefits of our calls at other than standard and want business customers. I will automatically receive a 30% discount off Excel's standard rates on all domestic long distance calls to non-land customers. I will also receive a 50% discount on all calls to land residential and small business customers. I will be charged a \$1.00 monthly service fee.

**PreventionPlan™** I understand I will be enrolled in the PreventionPlan calling plan designed especially for personal residential or small business customers who wish to pay a flat discount every year. I will automatically receive a 30% discount off Excel's standard rates on all domestic long distance calls to non-land customers. I will also receive a 50% discount on all calls to land residential and small business customers. All calls will be discount-priced. However, calls billed at non-discounted rates and there is a constant \$3.00 monthly service fee.

**Excel's WorldWide One™** that's WorldWide One calling program is especially designed for international calling needs. I will automatically receive the WorldWide One flat-rate per minute, per country international rates. There is no set-up charge. I pay a \$2 monthly service fee.

**My 800™** There is no set-up charge. I pay only \$3.00 a month plus long distance charges. The number will ring in and be billed in the billing telephone number I have indicated.

**Calling Cards** I request \_\_\_\_\_ calling cards (max 2) I request \_\_\_\_\_

**Account Cards** (available only with PreventionPlan) Check number of days desired  2  3  4 \$10.00 monthly fee

#### REQUEST FOR SERVICE

I authorize Excel to provide the services listed in Paragraph 6 above that will be provided by Excel to my telephone number(s) listed in Paragraph 2 above, and no other important information about the selection of a new telephone company is contained on the reverse side of this letter of agency. I certify that I have read and understand the Letter of Agency including the information on the reverse side. I further certify that I am at least eighteen years of age and that I am authorized to change telephone services for services to the telephone number(s) listed above.

CUSTOMER SIGNATURE John Wood

DATE 01-26-98

REPRESENTATIVE ID NUMBER

593245073

I hereby authorize my agent to act on my behalf in all matters relating to the telephone service and to sign any and all documents on my behalf.

REPRESENTATIVE SIGNATURE John T. Payton

WESTSIDE FAMILY WORKSHOP

40764540883



Printed by Ellen Plendl 2/05/98 4:37pm

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-----  
From: Ellen Plendl  
To: MAIL @ SMTP(jon\_wood@juno.com)  
Subject: Slamming Complaint  
-----

-----NOTE-----  
Mr. Jon C. Wood

Dear Mr. Wood:

Thank you for your correspondence concerning Excel.

We will look into the matter you outlined, advise the company to contact you to resolve the problem, and require the company to provide the Florida Public Service Commission with a letter outlining its resolution of the matter.

If you have any questions, I can be reached at 1-800-342-3552 or at eplendl@psc.state.fl.us.

Sincerely,

Ellen Plendl  
Regulatory Specialist  
Division of Consumer Affairs  
-----

Printed by Ellen Plendl 2/05/98 2:35pm

223 319

From: LRSBERRY @ SMTP (LRSBERRY@PSC.STATE.FL.US)  
To: Jennifer Erdman-Bridges, LRSBERRY @ PSC, Pamela Johnson  
Subject: fwd: Slamming Complaint Form

NOTE: 2/04/98-10:33pm

Return-Path: <mdmatney@2kweb.com>

Received: from 2kweb.com (192.41.9.197)

by mail.psc.state.fl.us (Connect2-SMTP 4.30A.1000128);

Wed, 4 Feb 1998 22:36:25 -0500

Received: (mdmatney@localhost) by 2kweb.com (8.8.5) id UAA13602; Wed, 4 Feb 1998  
20:33:45 -0700 (MST)

Date: Wed, 4 Feb 1998 20:33:45 -0700 (MST)

Message-Id: <199802050333.UAA13602@2kweb.com>

From: LRSBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMAN@PSC.STATE.FL.US (Consumer Slamming Complaint)

Reply-To: LRSBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMAN@PSC.STATE.FL.US (Consumer Slamming Complaint)

To: LRSBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMAN@PSC.STATE.FL.US

Subject: Slamming Complaint Form

Below is the result of your feedback form. It was submitted by Consumer Slamming  
Complaint  
(LRSBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMAN@PSC.STATE.FL.US on Wed  
Feb 4 20:33:44 MST 1998

Content:

From: LRSBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMAN@PSC.STATE.FL.US

return-email:

LRSBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMAN@PSC.STATE.FL.US

return-name: Consumer Slamming Complaint

subject: Slamming Complaint Form

Account holder: Jon C. Wood

Submitted by: Jon C. Wood

Service Address: 151 W. George Avenue

City, State and Zip Code: Maitland, FL 32751

County: Orange

Mailing Address:

Mailing City, State and Zip Code:

E-mail Address: jon\_wood@juno.com

Telephone Number at the Service Address: (407) 645-2895

Daytime Contact Telephone Number: (407) 645-2895

Local Telephone Company: Sprint

Interstate/Long Distance Telephone Company: AT&T

Intrastate/Local Toll Telephone Company: AT&T

Interstate/Long Distance: Yes

Intrastate/Local Toll: Yes

Company that Switched the Service Without Authorization: Excel

Contacted Preferred Carrier: YES

Contacted company in dispute: NO

name of contact:

Received bill from new carrier: NO

comments:

From: Jennifer Erdman-Bridges 2/05/98-1:11pm

Fwd to: Ellen Plendl

Ellen, please handle. Thanks!

Name PETER JOHN  
 Address NANCY PETERSEN CALLED  
1131 CIRCLE DRIVE  
 City/zip LAKE WALES 33853 County POLK  
 Account Number \_\_\_\_\_  
 Caller's Name \_\_\_\_\_  
 Company EXCEL TELE COMMUNICATIONS, INC.  
 Attn. JIM BUTLER 182268  
 Consumer's Telephone # (941)-676-2746  
 Can Be Reached (941)-676-1493  
 Route 1FD  
 Informal Conf. N Outreach \_\_\_\_\_

The customer said that her service was switched to Excel from AT&T without authorization. The customer said she would like her calls rerated and credit for any switching fees. Please, provide proof of authorization (LOA/TAPE), follow up with the customer, send the PSC a detailed written report, and respond by the date below.  
 Inquiry taken by JOHN PLESCOW.

08/21/97 Received report with explanation, LOA and \$14.57 credit. A letter was sent to the customer.

03/24/98 Closed.

Request No. 1822681  
 By DDM  Date 4:38 PM Date 08/06/1997  
 To CO  Date FGAL Date 08/06/1997  
 Type S Form Phone  
 Category \_\_\_\_\_  
 Infraction LS-13C

Closed by NEP Date 03/24/1998  
 Reply Received I

**CONSUMER REQUEST**

**FLORIDA PUBLIC SERVICE COMMISSION**

2540 SHUNARD OAK BOULEVARD  
 TALLAHASSEE, FL 32399-0850  
 850-413-6100

PLEASE RETURN THIS FORM WITH REPORT OF ACTION TO:

DUE: 08/22/1997

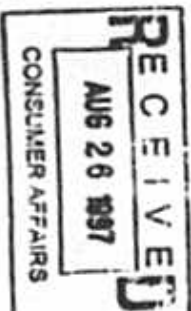


**EXCELLE**  
COMMUNICATIONS, INC.

August 22, 1997

*On line with the Service*

Doug Martin  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850



RE: Mrs. John Petersen  
Request No. 1822681

Dear Mr. Martin:

On August 6, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Mrs. John Petersen.

In her complaint, Mrs. Petersen states her long distance service was switched from AT&T to Excel without her prior consent or authorization. Mrs. Petersen seeks reimbursement for all service fees and switching fees assessed by Excel and GTE as a result of the change in carrier. In addition, she requests that the direct-dialed charges billed by Excel be adjusted to reflect the rates of her carrier of choice, AT&T.

Excel's records indicate that service was established for Mrs. Nancy Petersen on July 15, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (941) 676-2746. The account was subsequently canceled from our database on July 31, 1997, after we received an electronic transmission from GTE indicating that the long distance carrier for (941) 676-2746 had changed.

Excel Telecommunications is a long distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.

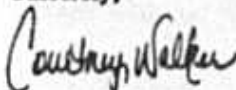
Our records further indicate that a credit adjustment of \$4.50 was issued to Mrs. Petersen's canceled account on July 31, 1997, for services fees assessed by Excel during the month of July. The credit adjustment should appear on her local telephone invoice within 60 days.

In an effort to resolve this matter, an additional credit adjustment of \$10.07 was issued to Mrs. Petersen's account on August 13, 1997. This figure includes the switching fees assessed by GTE as well as the direct-dialed charges billed by Excel from July 20, 1997, through July 26, 1997. The adjustment should appear on Mrs. Petersen's GTE invoice within 60 days.

I contacted Mrs. Petersen on August 13, 1997, to advise her of my findings and inform her of the credit adjustments. I assured Mrs. Petersen that it is never Excel's intention to establish service without the appropriate consent or authorization, and I apologized for any inconvenience this matter has caused. She states this resolution is satisfactory.

If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Mrs. John Petersen  
1131 Circle Drive  
Lake Wales, FL 33853

YOU MUST COME TO A SEPARATE SERVICE REQUEST FORM FOR EACH TELEPHONE BILL RECEIVED

ATTACHMENT C  
 MAIL STOP 193084/119  
 BOX 230023 • DALLAS, TX 75265-0023

PLEASE / CHECK TO INDICATE CUSTOMER STATUS  
 NEW CUSTOMER  
 EXISTING CUSTOMER

## SERVICE REQUEST FORM (SRF)

Please print customer's information exactly as it appears on their phone bill.

BILLING TELEPHONE NUMBER (REQUIRED)

941 676 2746

SECOND TELEPHONE LINE ON SAME BILL

THIRD TELEPHONE LINE ON SAME BILL

PLEASE! FILL OUT BOXED AREA NEATLY MAKING SURE NOT TO WRITE OUTSIDE OF BOXES AS SHOWN

ABC5551342

TO INSURE PROPER PROCESSING OF YOUR INFORMATION COMPLETE AS SHOWN IN BLACK OR BLUE INK AND PRINT IN CAPITAL LETTERS

LAST NAME

Petersen

FIRST NAME

Nancy

ADDRESS LINE 1

1131 Circle Dr

ADDRESS LINE 2

CITY

Lake Wales

STATE

FL

ZIP CODE

33853

SOCIAL SECURITY NUMBER

987-92-3822

INTRALATA SERVICE

PLEASE INITIAL THIS BOX TO SELECT INTRALATA SERVICE  
 I understand I will be prohibited to fund for any toll calls made within my local area  
 except for those calls, except those on prohibited long distance numbers  
 I understand on local service can receive a service charge for each long charge.

## SELECT YOUR SERVICE

**Excel Simply One™** I understand I will be enrolled in the Simple One calling program designed especially for residential customers. All calls will be charged a per-minute fee-one hour upon rate of day and originating and terminating call charges. I understand I will be charged a \$1.00 monthly service fee.

**ExcelPlus II™** I understand I will be enrolled in the ExcelPlus II calling program designed especially for residential customers who make the majority of their calls to other local residential and small business customers. I will receive a 30% discount of local's standard rates on all domestic long distance calls to non-local customers. I will also receive a 50% discount on all calls to local residential and small business customers. I will be charged a \$1.00 monthly service fee.

**PremierPlus II™** I understand I will be enrolled in the PremierPlus II calling program designed especially for personal residential or small business customers with 175 or less of long distance usage per month. I will automatically receive a 30% discount of local's standard rates on all domestic long distance calls to non-local customers. I will also receive a 50% discount on all calls to local residential and small business customers. All calls will be domestic-prepaid, flat-rate, per-minute calls and there is a standard \$1.00 monthly

**Excel WorldNet™** Excel WorldNet calling program is especially designed for international calling needs. I will automatically receive the WorldNet discount, date-based international rates. There is an no-up charge. I pay a \$3 monthly service fee.

**My 800™** There is no no-up charge. I pay only \$3.50 a month plus long distance charges. This number will ring in and be billed to the Billing Telephone Number I have indicated.

**Calling Cards**  
 I register \_\_\_\_\_ calling cards (max 12)

**Account Codes** (Available only with PremierPlus II)  
 Check number of digits desired  1  3  4  
 \$10.00 monthly fee

## REQUEST FOR SERVICE

This Letter of Agency shall be in effect upon its receipt and acceptance by Excel Telecommunications, Inc. at its Corporate Office in Dallas, Texas. I authorize you to authorize my local telephone company that I have selected Excel Telecommunications, Inc. to be my primary long distance service for 1+ equal services during (including weekends if indicated above). I understand that I can designate only one long distance service. I understand my local telephone company can assess a service charge for each line changed. This Letter of Agency shall remain in effect until I revoke the same or writing. I certify that I am at least 18 years of age and that I have the proper authority to sign this Letter of Agency.

CUSTOMER SIGNATURE

Nancy Peterson

DATE 7-10-97

REPRESENTATIVE ID NUMBER

554119143

I hereby certify that my sponsor granted me as obtaining this Post-Start customer.

REPRESENTATIVE SIGNATURE

DATE

EXCEL REPRESENTATIVE LAST NAME

FIRST NAME

TELEPHONE NUMBER

Jackson

Cindy

9169291320

WHITE - EXCEL

YELLOW - REPRESENTATIVE

PINK - CUSTOMER

REF CONTROL NO. 0896-1601 119528200



PUBLIC SERVICE COMMISSION

2540 Shumard Oak Boulevard  
CAPITAL CIRCLE OFFICE CENTER  
TALLAHASSEE, FLORIDA 32399-0830

FACSIMILE TRANSMITTAL COVER SHEET

DATE: 4-13-98 TIME SUBMITTED: 2:30 p. m.

TO: Nancy TITLE: \_\_\_\_\_

OFFICE/BUSINESS: \_\_\_\_\_

TELEPHONE NO: ( ) \_\_\_\_\_ FAX NO: (741) 676-6844

FROM: \_\_\_\_\_

OFFICE/DIVISION: \_\_\_\_\_

TELEPHONE NO: (850) FAX NO: (850)

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NUMBER OF PAGES, INCLUDING THIS COVER SHEET: \_\_\_\_\_

\*\* Transmit Conf. Repc

Apr 13 '98 14:22

FL PUBLIC SERVICE COMM--> 9416766844	
No.	0012
Mode	NORMAL
Time	1'15"
Pages	2 Page(s)
Result	OK



Name SMITH, JTY

Address 2740 N.E. 15 AVE.

Company EXCEL TELE COMMUNICATIONS, INC.

Attn. JOEL BALLEW 1942891

Consumer's Telephone # (954)-565-5923

City/zip FT. LAUDERDALE 33334 County BRO

Can Be Reached

Account Number

Notes

Informal Conf. M. Perrecha CUSTOMER'S BILL

Request no. 1942891  
by SRS Jim 1:48 PM 11/17/1997  
to CO Jim FAX 11/17/1997  
Type S from Phone  
Category \_\_\_\_\_  
Instruction LS-13C

Customer says the following:

Her long distance service was switched without her knowledge.

The customer's PIC is ATAT.

Please provide proof of authorization, including an LOA/TAPE.

1  
2

12/04/97 Report received. The company will be issuing the customer a credit of \$3.19 for the charges incurred. The information provided is not the signature of the customer.

12/9/97 Report received. This report is the same as the previous one provided by the company. I will contact the customer with the results of this investigation.

Closed by SRS date 12/19/1997  
Reply received I

**CONSUMER REQUEST**

**FLORIDA PUBLIC SERVICE COMMISSION**

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850  
850-413-6100

PLEASE RETURN THIS FORM WITH REPORT OF ACTION TO:

DUE: 12/04/1997



December 4, 1997

*On line with the future*

Sam Gonzalez  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850



RE: Betty Smith  
Request No. 1942841

Dear Mr. Gonzalez:

On November 17, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Ms. Betty Smith.

In her complaint, Ms. Smith states that her long distance service was switched from AT&T to Excel without her prior consent or authorization.

Excel's records indicate that an account was established for Ms. Smith on October 10, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (954) 565-5923. The account was canceled from our database on November 17, 1997, at Ms. Smith's request.

Excel Telecommunications is a long-distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.

Our records further indicate that a credit adjustment of \$10.00 was issued to Ms. Smith's canceled account on November 17, 1997. The credit adjustment reimburses Ms. Smith for the switching fees assessed by Bell South and should appear on her local telephone invoice within 60 days.

In an effort to resolve this matter, the following credit adjustments were issued to Ms. Smith's canceled account on December 1, 1997:

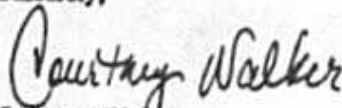
- \$1.03 -- service fees assessed by Excel in October 1997;
- \$2.16 -- total amount of the Excel charges incurred as a result of the change in carrier, including the direct-dialed calls placed from October 18, 1997, through October 29, 1997.

The credit adjustments totaling \$3.19 should appear on Ms. Smith's Bell South invoice within 60 days.

I contacted Ms. Smith on December 1, 1997, to advise her of my findings and inform her of the credit adjustment. I assured Ms. Smith that it is never Excel's intention to establish service without the appropriate consent or authorization, and I apologized for any inconvenience this matter may have caused. She states this resolution is satisfactory.

If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Ms. Betty Smith  
2740 N.E. 15 Ave.  
Ft. Lauderdale, FL 33334



December 4, 1997

*On line with the future*

Sam Gonzalez  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0830

RE: Betty Smith  
Request No. 1942881

Dear Mr. Gonzalez:

On November 17, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Ms. Betty Smith.

In her complaint, Ms. Smith states that her long distance service was switched from AT&T to Excel without her prior consent or authorization.

Excel's records indicate that an account was established for Ms. Smith on October 10, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (954) 565-5923. The account was canceled from our database on November 17, 1997, at Ms. Smith's request.

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In an effort to resolve this matter, the following credit adjustments were issued to Ms. Smith's canceled account on December 1, 1997:

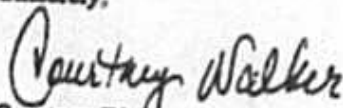
- \$1.03 - service fees assessed by Excel in October 1997;
- \$2.16 - total amount of the Excel charges incurred as a result of the change in carrier, including the direct-dialed calls placed from October 18, 1997, through October 29, 1997.

The credit adjustments totaling \$3.19 should appear on Ms. Smith's Bell South invoice within 60 days.

I contacted Ms. Smith on December 1, 1997, to advise her of my findings and inform her of the credit adjustments. I assured Ms. Smith that it is never Excel's intention to establish service without the appropriate consent or authorization, and I apologized for any inconvenience this matter may have caused. She states this resolution is satisfactory.

If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Ms. Betty Smith  
2740 N.E. 15 Ave.  
Ft. Lauderdale, FL 33334



REF CONTROL NO. 0896-1601 137777704

OCT 10 1997 8 8

YOU MUST COMPLETE A SEPARATE SERVICE REQUEST FORM FOR EACH TELEPHONE BILL RECEIVED

**EXCEL**  
TELECOMMUNICATIONS, INC.  
PO BOX 428292 • DALLAS, TX 75264

**SERVICE REQUEST FORM (SRF)**

PLEASE / CHECK TO INDICATE CUSTOMER STATUS  
 NEW CUSTOMER  
 EXISTING CUSTOMER

Please print customer's information exactly as it appears on their phone bill.  
BILLING TELEPHONE NUMBER (REQUIRED)  
9 5 4 5 6 5 5 9 2 3  
SECOND TELEPHONE LINE ON SAME BILL  
THIRD TELEPHONE LINE ON SAME BILL

PLEASE FILL OUT BOXED AREA NEATLY MAKING SURE NOT TO WRITE OUTSIDE OF BOXES AS SHOWN

ABC 5551342

TO INSURE PROPER PROCESSING OF YOUR INFORMATION COMPLETE AS SHOWN IN BLACK OR BLUE INK AND PRINT IN CAPITAL LETTERS

LAST NAME FIRST NAME  
SMITH BETTY  
ADDRESS LINE 1  
2740 NE 15TH AVE  
ADDRESS LINE 2  
~~FT LAUDERDALE~~  
FT LAUDERDALE STATE ZIP CODE  
FL 33334

SOCIAL SECURITY NUMBER  
Refused  
INTRALAZA SERVICE  
PLEASE PRINT YOUR NAME TO SELECT INTRALAZA SERVICE  
I understand I will be contacted in about 10-15 days and will receive a copy of the program description and enrollment information. I will also receive a copy of the program description and enrollment information. I will also receive a copy of the program description and enrollment information.

SELECT YOUR SERVICE  
Special Simply Green™ I understand I will be enrolled in the Special Simply Green calling program designed especially for residential customers. All calls will be charged a per-minute rate that is 10% below the standard rate. I will also receive a copy of the program description and enrollment information. I will also receive a copy of the program description and enrollment information.  
GlobalPlus 95™ I understand I will be enrolled in the GlobalPlus 95 calling program designed especially for residential customers who make the majority of their calls to other local residential and small business numbers. I will automatically receive a 10% discount off local standard rates on all domestic long distance calls to non-local customers. I will also receive a 10% discount on all calls to local residential and small business numbers. I will also receive a copy of the program description and enrollment information.  
PremierPlus 95™ I understand I will be enrolled in the PremierPlus 95 calling program designed especially for premium residential and small business customers with 775 or less of long distance usage per month. I will automatically receive a 10% discount off local standard rates on all domestic long distance calls to non-local customers. I will also receive a 10% discount on all calls to local residential and small business numbers. All calls will be charge-rated. On-call, per-minute calls and there is a maximum of 10 minutes per month.  
Global WorldPhone™ Global WorldPhone calling program is a specially designed for international calling with a pay-as-you-go feature. There is no set-up charge. I pay a \$3 monthly service fee.  
My 800™ There is no set-up charge. I pay only \$1 per month plus long distance charges. The number will ring in and be billed to the billing telephone number I have indicated.  
Calling Cards I require \_\_\_\_\_ calling cards (max 2)  
Account Codes (Available only with PremierPlus 95) Check number of digits desired:  3  4  4  
10-00 minutes free

REQUEST FOR SERVICE  
The Letter of Agency will be a letter upon its receipt and completion to Special Telecommunications, Inc. as Corporate Office in Dallas, Texas. I authorize you to advise my local telephone company that I have selected Special Telecommunications, Inc. as my primary long distance service provider. I understand that I will receive a copy of the program description and enrollment information. I understand that I will receive a copy of the program description and enrollment information. I understand that I will receive a copy of the program description and enrollment information.

CUSTOMER SIGNATURE *Mark Lowie* DATE 10/5/97  
REPRESENTATIVE ID NUMBER 554478610  
I hereby certify that my customer requested me as shown on this form and customer  
*Mark Lowie*  
REPRESENTATIVE SIGNATURE DATE 10/5/97  
EXCEL REPRESENTATIVE LAST NAME FIRST NAME TELEPHONE NUMBER  
MARKLOWIE HISA 16503558816