

MEMORANDUM

May 20, 1998

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FPSC - Records/Reporting

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *BK/TMB*

RE: DOCKET NO. 951232-TI - DADE COUNTY CIRCUIT COURT REFERRAL OF CERTAIN ISSUES IN CASE NO. 92-11654 (TRANSCALL AMERICA, INC. D/B/A ATC LONG DISTANCE VS. TELECOMMUNICATIONS SERVICES, INC., AND TELECOMMUNICATIONS SERVICES, INC. VS. TRANSCALL AMERICA, INC. D/B/A ATC LONG DISTANCE) THAT ARE WITHIN THE COMMISSION'S JURISDICTION.

98-0703-PCO-TI

Attached is an ORDER GRANTING, IN PART, AND DENYING, IN PART, MOTION TO COMPEL, to be issued in the above referenced docket. (Number of pages in order - 14)

BK/anr
Attachment
cc: Division of Communications
I: 951232mc.bk

MUST GO TODAY

TRAYED 4/20

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Dade County Circuit Court referral of certain issues in Case No. 92-11654 (Transcall America, Inc. d/b/a ATC Long Distance vs. Telecommunications Services, Inc., and Telecommunications Services, Inc. vs. Transcall America, Inc. d/b/a ATC Long Distance) that are within the Commission's jurisdiction.

DOCKET NO. 951232-TI
ORDER NO. PSC-98-0703-PCO-TI
ISSUED: May 20, 1998

ORDER GRANTING, IN PART, AND DENYING, IN PART,
MOTION TO COMPEL

Transcall America, Inc., d/b/a ATC Long Distance (ATC) filed this complaint with the Dade County Circuit Court on May 21, 1992, against Telecommunications Services, Inc. (TSI) for alleged failure to pay for telecommunications services rendered. On July 5, 1994, TSI filed a counterclaim alleging breach of contract and improper billing of services. On February 24, 1995, the Court issued its Order Staying Action and Referring to the Florida Public Service Commission. Therein, the Court referred to this Commission for review all claims within the Commission's exclusive jurisdiction under Chapter 364. On January 29, 1997, TSI filed a Motion for Reconsideration of Order Staying Action and Referring to the Florida Public Service Commission and Motion for Leave to Amend Counterclaim with the Dade County Circuit Court. Transcall served its response to the motion on February 20, 1997, and the Commission served a response on April 18, 1997. On May 27, 1997, the Circuit Court issued its Order Denying Motion for Reconsideration and to Amend. This matter has, therefore, been set for hearing August 19 and 20, 1998.

On January 6, 1998, Transcall served its first set of interrogatories on TSI. On March 20, 1998, Transcall filed a Motion to Compel Answers to Interrogatories. On March 31, 1998, TSI filed an Agreed Motion for Enlargement of Time to Serve Opposition to Transcall's Motion to Compel Answers to Interrogatories. TSI asserted that it had reached an agreement

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FPCO-RECORDS/REPORTING

with counsel for Transcall that the response to the Motion to Compel may be served by April 6, 1998. Thus, by Order No. PSC-98-0487-PCO-TP, filed April 7, 1998, TSI's Motion for Enlargement of Time was granted. On April 7, 1998, TSI filed its Opposition to Transcall's Motion to Compel.

Transcall

In its Motion, Transcall asks that TSI be compelled to respond to the following interrogatories: 1(a), (b), (d), (e), (f), (g), (h), (i), (k), (m), and (n); 4(a), (b), (c), (d), (e), (f), (g), (h), (i), (k), and (m); 5(a), (b), (c), (d), (e), (f), (i), and (k); 6(a), (b), (c), (d), (e), (f), (i), and (k); 7(a), (b), (c), (d), (e), (f), (g), (h), (k), (l), and (n); 8(a), (b), (c), (d), (e), (f), (i), (j), and (l); 9(a), (b), (c), (d), (e), (f), (i), (j), and (l); 10(a), (b), (c), (d), (e), (f), (i), (j), and (m); 11(a), (b), (c), (f), (h), (i), (j), and (m); 12(a), (b), (d), (f), (h), (i), (j), and (m); 13(a), (b), (d), (f), (g), (h), and (k); 14(a), (d), (e), (g), (i), and (l); 15(a), (b), (c), (e), (g), (h), (i), and (l); 16(a), (b), (c), (f), (h), (i), (j), and (m); 17(a), (b), (c), (f), (h), (i), (j), and (m); 19(c); and 20.

Transcall argues that these interrogatories seek information relating to TSI's specific allegations against Transcall. Transcall asserts that these interrogatories are not unduly burdensome and that TSI should be required to respond. Transcall further argues that, to date, TSI has only provided evasive and incomplete answers, which under Rule 1.380, Florida Rules of Civil Procedure, constitutes a failure to answer.

Specifically, Transcall argues that TSI's objections to Transcall's interrogatories fall into five categories. Attachment A to this Order is Transcall's Exhibit B, which sets forth the interrogatories that it asks to be compelled and the categories into which TSI's objection to each specific interrogatory falls. First, Transcall states that TSI invoked Rule 1.340(c), Florida Rules of Civil Procedure, which allows a respondent to produce business records for audit or inspection in response to an interrogatory. Transcall argues, however, that TSI has improperly invoked this rule because TSI has not adequately identified the records to be produced, nor has it designated a person capable of identifying the information necessary to answer Transcall's interrogatories. Transcall argues that TSI has only referred Transcall to 56 boxes of documents in response to certain interrogatories. Transcall states that these boxes contain copies

of end-users bills; however, Transcall argues that just looking at boxes of bills does not identify the customers that complained or the complaint raised. Transcall argues that the courts have determined that simply producing boxes of business records for inspection by the opposing party is not sufficient to respond to interrogatories.¹

Transcall also states that TSI responded to 30 interrogatory subparts by indicating that the information would eventually be provided in a report that is being compiled by TSI's designated experts. Transcall asserts that this might have been acceptable had the report been attached as part of the response to the interrogatories. The report was not, however, attached. Thus, Transcall argues that the responses improperly refer to other documents or pleadings.² Transcall argues that it has been seeking this information since May 1994, and that TSI continues to assert that the answers will soon be provided. Transcall states that, to date, TSI has not provided the information necessary to explain the basis of TSI's claims against Transcall.

Transcall also argues that TSI improperly responded to interrogatories by referring to an exhibit that is a list of 19 individuals' names. Transcall argues that the list does not indicate which person can best respond to specific interrogatories; therefore, TSI responses are incomplete. Transcall further argues that TSI provided non-responsive answers to a number of other interrogatories by referring to Transcall's responses to interrogatories in another case. Transcall argues that its responses to interrogatories in another case do not have a bearing on this case. Furthermore, Transcall argues that the answers that TSI gave using Transcall's answers in the previous case do not respond to the specific interrogatories.

¹ Citing Matthews v. USAir, Inc., 882 F.Supp. 274 (D.C.N.D.N.Y. 1995); Summit Chase Condominium Association v. Protean Investors, Inc., 421 So. 2d 562 (Fla. 3rd DCA 1982); and Walt Disney Company v. DeFabiis, 168 F.R.D. 281 (C.D.Ca. 1996).

² Citing State Road Department v. Florida East Coast Railway Company, 212 So. 2d 315 (Fla. 3rd DCA 1968); and Summit Chase Condominium Association v. Protean Investors, Inc., 421 So. 2d 562 (Fla. 3rd DCA 1982).

Finally, Transcall argues that TSI has improperly objected to two interrogatory subparts on the basis that they are irrelevant and unduly burdensome. In response to interrogatories seeking information regarding customer complaints of improper billings for calls not made and for information on TSI's allegation that Transcall was overcharging and adding time to calls, Transcall states that TSI has invoked Rule 1.280, Florida Rules of Civil Procedure, and objected on the grounds that the information sought is irrelevant and unduly burdensome. Transcall argues, however, that customer complaints regarding Transcall's services to TSI are the basis for TSI's claims against Transcall. Transcall asserts that if, as argued by TSI, facts supporting TSI's claims are not "reasonably calculated to lead to the discovery of admissible evidence, then TSI has no claims against Transcall." (Motion at 10). Transcall further argues that each of its interrogatories seek information regarding TSI's specific allegations against Transcall. Transcall asserts that it should be provided with adequate answers to these questions so that it may prepare its defense to TSI's allegations.

TSI

In its response in Opposition to Transcall's Motion, TSI first notes that it has timely responded to Transcall's request for production of documents and expert interrogatories that were served the same day that Transcall's 221 fact interrogatories were served. TSI states that its earlier, timely responses in this docket undermine Transcall's assertions that TSI has not been responsive to discovery requests.

TSI also argues that it was proper for it to refer Transcall to the 56 boxes of documents in response to Transcall's interrogatories. TSI argues that these boxes contain billing records originally provided by Transcall to TSI. TSI argues that Transcall now wants TSI to audit these records, which are actually Transcall's, at TSI's expense. TSI asserts that it has given Transcall the opportunity to inspect and copy these records, but Transcall has not. TSI also asserts that its experts performed an audit of these records and produced a report on them to Transcall on March 24, 1998. TSI argues that while Transcall has not chosen to initiate an audit or investigation of TSI's claims, Transcall, by its interrogatories, wants TSI to audit the billing records for it. TSI states that it has already performed such an audit and provided the report on that audit to Transcall. TSI states that

Transcall, however, would like TSI to perform an audit of the billing records under Transcall's terms, but at TSI's cost.

TSI argues that provision of these records in accordance with Rule 1.340(c), Florida Rules of Civil Procedure, was sufficient. TSI notes that Transcall inspected the boxes of documents on March 25, 1998. TSI adds that it provided the boxes to Transcall in an orderly fashion. TSI states that each box contained one type of document, which was identified on the side of the box. Also, the customer contracts were alphabetized. TSI further argues that the information was divided into folders or dividers, and identified with labels.

TSI further states that the computer printouts of the call detail information were presented to Transcall in the same state that Transcall presented them to TSI. TSI asserts that the dates of the printouts are indicated on the tops of the boxes. TSI argues, however, that Transcall would have it

 categorize [the call detail records] by type
 of error each record contains, comment on the
 record in various burdensome and unnecessary
 fashions, and then present this all to
 Transcall. . .

(Opposition at 5). TSI argues that it does not have the ability to do this, nor would it be just to require TSI embark on this task.

In addition, TSI argues that Transcall has not shown that it would be more burdensome for Transcall to inspect and analyze the records than it would be for TSI.³ TSI also argues that the case that Transcall has cited do not require that TSI do anything more than what it has already done. TSI states that the cases require only that the documents be organized and specify the category and

³ Citing Wright & Miller, 8A Federal Practice and Procedure § 2178 at 328, 329 (1994); Florida Department of Professional Regulation v. The Florida Psychological Practitioners Association 483 So. 2d 817 (Fla. 1st DCA 1986); Shelton v. American Motors Corp., 805 F. 2d 1323(8th Cir. 1986)(attorney not required to identify groups of documents as grouping could reveal selection process, and, therefore, fall under work product.); and Sporck v. Peil, 759 F.2d 312, 315 (3rd Cir. 1985).

location of the records from which answers to interrogatories may be derived. TSI argues that it has already done that.

Regarding the expert's reports, TSI argues that it has already given Transcall copies of the two reports and that it sent a copy of the schedule of the report. Referencing Transcall's Exhibit A, TSI argues that Transcall's complaint that TSI has not clearly identified the scope of the knowledge of TSI's 16 fact witnesses is "frivolous." TSI notes that 2 of the witnesses identified are TSI witnesses, while the other 14 are current and former Transcall employees. TSI states that of the 2 TSI witnesses, Transcall has already deposed one, Joel Esquenazi. TSI asserts that the other TSI witness has much the same knowledge as does Mr. Esquenazi. TSI also argues that it has provided responsive answers in contract to what Transcall alleges. TSI states that the answers it has provided answer that questions asked by Transcall consistent with TSI's position in this case. Specifically, TSI notes that regarding the breaches of contract identified in TSI's counterclaim, the breaches have been identified in its expert's reports, and have been based on source documents provided by Transcall.

Furthermore, TSI argues that it is not required to provide the names, addresses and dates of the customer complaints. TSI argues that this information is in the box entitled "Customer Complaints," which was produced to Transcall on March 25, 1998. TSI argues that both parties are equally capable of reviewing the information in the box to find that information that Transcall wants. As for its response to Interrogatory 7(1), TSI states that it has adequately responded to this interrogatory because it had indicated that it was overcharged, its Countercomplaint sets forth the amount and method of the overcharge, and its expert's report contains the methodology for computing the overcharge.

Finally, TSI argues that Transcall's Motion to Compel was filed in bad faith and that Transcall should pay TSI's attorney's fees incurred in opposing the motion. TSI argues that Transcall filed the motion to compel even before it had inspected the boxes of documents that TSI had provided; therefore, it was premature. In addition, TSI argues that it has fully and timely responded to all of Transcall's discovery requests. TSI argues that Transcall has only filed this motion as a means to burden TSI and in an effort to find a basis to seek dismissal of TSI's Countercomplaint. TSI argues, therefore, that Transcall should be required to pay

TSI's attorney's fees for responding to this motion, in accordance with Rule 1.340(a)(4), Florida Rules of Civil Procedure.

DETERMINATION

I have considered the arguments presented and reviewed the interrogatories and responses provided. The number of interrogatories served by Transcall exceed the limit I set in Order No. PSC-98-0117-PCO-TI, issued January 21, 1998. Transcall did not seek a waiver or extension of this limit. I shall not, therefore, compel TSI to respond to the interrogatories propounded by Transcall beyond the limit set forth in Order No. PSC-98-0117-PCO-TI. Transcall shall limit the discovery sought in order to comply with Order No. PSC-98-0117-PCO-TI. Transcall may do so by either revising its interrogatories or by informing TSI of specific interrogatories that may be stricken. With this limitation in effect, my determination on the specific interrogatories and objections is set forth below.

I have categorized my determination into the categories based on the type of response provided by TSI, similar to the method employed by Transcall in Attachment B to its Motion.

I. **Rule 1.340, Florida Rules of Civil Procedure**
Option to Produce Business Records

The interrogatories that fall into this category are as follows:

1(d), (e), (g), (h), (n); 4(a), (e), (g), (h); 5(a), (c), (d), (e), (f), (i); 6(a), (c), (d), (e), (f), (i); 7(a), (e), (f), (g), (h), (k); 8(a), (d), (e), (f), (i), (j); 9(a), (e), (f), (i), (j); 10(a), (d), (e), (f), (i), (j); 11(a), (b), (c), (h), (i), (j), (m); 12(a), (d), (h), (i), (j), (m); 13(a), (b), (f), (g), (h), (k); 14(a), (d), (i), (l); 15(b), (c), (g), (h), (i), (l); 16(a), (h), (i), (h), (m); 17(c), (h), (i), (j), (m); and 19(c).

The courts have clearly stated that

Rule 1.340(c), Florida Rules of Civil Procedure, contemplates that where interrogatory answers can be derived from business records, and where the burden of deriving the information is substantially the same for

the party serving the interrogatory as for the party to whom it is directed, then compliance may be made by affording the requesting party the opportunity to examine the business records. If that is not a viable option, and if plaintiffs are unwilling to narrow the scope of their request, then compilation of the information should be conditioned upon plaintiffs' advancing the expenses of compiling the interrogatory answers.

Emphasis added.

Mt. Sinai Medical Center, Inc. v. Perez-Torrey, 55 So. 2d 1300 (Fla. 3rd DCA 1990), citing Korneffel v. South Broward Hosp. Dist., 431 So.2d 742 (Fla. 4th DCA 1983); Schering Corp. v. Thornton, 280 So.2d 493 (Fla. 4th DCA 1973); and North Miami Gen. Hosp. v. Royal Palm Beach Colony, Inc., 397 So.2d 1033 (Fla. 3rd DCA 1981).

The courts have also stated that

The rule also provides that the answer must be in sufficient detail to permit the interrogating party to locate and identify, as readily as can the party interrogated, the records from which the answer may be derived or ascertained, or shall identify the person or persons representing the interrogated party who will be available to assist the interrogating party in locating and identifying the records at the time they are produced.

Emphasis added.

Florida Dept. Of Professional Regulation v. Florida Psychological Practitioners Association, 483 So. 2d 817 (Fla. 1st DCA 1986) (Emphasis in original). Furthermore, competent, substantial evidence must support a finding that it would be more burdensome for one party to extract the information sought than for another. Id. at 819. See also Department of Health and Rehabilitative Services v. Cleavinger, 582 So. 2d 68 (Fla. 1st DCA 1991) (competent evidence must be presented as to burden on interrogating party before more complete answer is ordered).

Having reviewed each of the interrogatories to which TSI responded by invoking Rule 1.340(c), I find that each of these interrogatories seeks information that relates directly to a specific allegation contained at page 8, numbered paragraph 24, of

TSI's Third Amended Countercomplaint. I believe that these specifically itemized allegations are competent evidence that TSI could more readily locate information in its possession that is responsive to Transcall's interrogatories than could Transcall.

I note that in the case cited by TSI as standing for the proposition that invoking 1.340(c) is sufficient, Florida Dept. Of Professional Regulation v. Florida Psychological Practitioners Association, the information requested by the Florida Psychological Practitioners Association (FPPA) did not pertain to allegations made by the Department of Professional Regulation (DPR), nor did FPPA present any evidence that it would be more burdensome for it to review DPR's records for the information requested. 483 So. 2d 817, at 818, 819 (Fla. 1st DCA 1986). In this case, however, TSI's own Countercomplaint sufficiently demonstrates that it would be more burdensome for Transcall to extract information from TSI's records that is responsive to Transcall's interrogatories than for TSI. The burden does not appear substantially the same for TSI as for Transcall. TSI cannot, therefore, invoke Rule 1.340(c) and shall be required to provide answers that are responsive to Transcall's interrogatories.

To the extent, however, that particular interrogatories seek the name and address of particular customers that complained, as well as the date of the customer's complaint, TSI need not list this information for each interrogatory, but may provide this information in a separate box that shall be clearly labeled as containing information regarding customers that filed complaints. Furthermore, TSI shall be required to either label the information in the box according to the type of complaint presented, or shall be required to divide the documents into complaint categories.

II. TSI's Expert's Report

For the following interrogatories, TSI referred Transcall to a report being compiled by TSI's expert in this case, Lopez Levi & Associates, which would be provided at a later date:

1(f), (k); 4(b), (c), (m); 5(k); 6(k); 7(b), (c), (n);
8(c), (l); 9(c), (l); 10(c), (l); 11(f); 12(b), (f);
13(d); 14(e), (g); 15(a), (e); 16(b), (c), (f); 17(a),
(b), and (f).

Upon consideration, I find Transcall's citation of State Road Department v. Florida East Coast Railway Company persuasive. The court stated in that case that

. . . [A]n answer to an interrogatory must be complete in itself and should not refer to other pleadings or documents or affidavits and thereby attempt to make their contents a part of the answer. This is so because, as stated above, the answer made in response to an interrogatory is required to be the sworn answer of the party making it. The foregoing interpretations have been made with reference to the equivalent federal rule of practice relating to interrogatories. See Moore's Federal Practice, Second Edition, Vol. 4, s 33.25(1).

212 So. 2d 315, 317 (Fla. 3rd DCA 1968).

I am concerned that TSI has not made a sworn response by referring to a report from its expert that was provided separate from its responses to the interrogatories. Thus, I shall compel TSI to further respond to these interrogatories. To the extent, however, that TSI's expert's report is responsive to any of the interrogatories identified, TSI may attach a copy of the report and incorporate the report as its sworn response.

III.

Exhibit A
List of Witnesses

TSI referred Transcall to Exhibit A, which is a list of witnesses, in response to interrogatories 1(i), 4(d), 5(b), 6(b), 7(d), 8(b), 9(b), and 10(b). These interrogatories seek the TSI representative most knowledgeable regarding particular allegations made by TSI. Exhibit A clearly identifies two TSI representatives. TSI indicated in its response to Transcall's motion that both of the identified representatives, Mr. Esquenazi and Mr. Rodriguez, have similar knowledge, but that Mr. Esquenazi's knowledge is somewhat more extensive than that of Mr. Rodriguez. Although this clarification should have been provided in response to Transcall's interrogatories rather than in response to a motion to compel, I find that TSI's reference to Exhibit A is sufficient. Transcall's Motion to Compel as it relates to these interrogatories is, therefore, denied.

IV. Unresponsive Answers

Transcall argues that TSI's responses to interrogatories 1(a), (b), (m); 4(i), (k); 11(a); and 20 are unresponsive.

With regard to interrogatories 1(a) and (b), these interrogatories seek an explanation of how Transcall violated its Florida tariff and how it billed in excess of its Florida tariff. TSI objected based upon Transcall's responses to interrogatories propounded by TSI. TSI then simply provided an affirmative response that Transcall had violated and billed in excess of the applicable tariffs, but did not provide the explanation sought by the interrogatories. TSI's responses are clearly unresponsive. TSI shall, therefore, be compelled to respond to interrogatories 1(a) and (b).

As for interrogatories 4(k) and 11(a), TSI invoked Rule 1.340(c), Florida Rules of Civil Procedure, in response to both interrogatories. In addition, TSI objected to interrogatory 11(a) as irrelevant to the subject matter of the pending action. As previously set forth in Section I of my determination, the burden of extracting this information from TSI's records does not appear to be substantially the same for TSI as for Transcall. TSI cannot, therefore, invoke Rule 1.340(c) and shall be required to provide answers that are responsive to Transcall's interrogatories. Furthermore, regarding TSI's objection to 11(a) as irrelevant to this proceeding, I refer to Order No. PSC-98-0488-PCO-TI, issued April 7, 1998. Approved Issue 3, identified in Attachment A to that Order, clearly includes a sub-issue on improper charges for 800 numbers. As such, I find that interrogatory 11(a) is likely to lead to the discovery of admissible evidence. TSI shall, therefore, be required to respond to interrogatories 4(k) and 11(a).

As it relates to interrogatories 1(m) and 4(i), I find that TSI's responses to these interrogatories are adequate. As framed, these interrogatories only seek further explanation if the response is affirmative. TSI provided a negative response to both interrogatories. In addition, interrogatory 20 does not seem designed to lead to the discovery of relevant, admissible evidence. The interrogatory seeks the method and the carriers used by TSI to provide service to its customers since April 1992. This information does not appear likely to lead to information relevant to the issues identified in Order No. PSC-98-0488-PCO-TI.

Therefore, I shall not compel TSI to respond to interrogatories 1(m), 4(i), and 20.

V. Objections Based on Relevance
and Burden

TSI objected to providing the name and address of customers that complained regarding overbilling and double billing in response to interrogatories 4(f) and 9(d). TSI argued that the information sought by these interrogatories is irrelevant to the issues to be determined in this proceeding and that compiling the information would be unduly burdensome. Based on the issues set forth in Order No. PSC-98-0488-PCO-TI and the allegations in TSI's CounterComplaint, I find that these interrogatories are likely to lead to the discovery of admissible evidence. TSI shall, therefore, be required to respond to these interrogatories.

As for interrogatory 7(1), TSI argues that this interrogatory seeks irrelevant information and is overly burdensome. Interrogatory 7(1) states:

Provide all facts which support TSI's allegations in wrongful conduct 5 that T/ATC was overcharging and adding time to calls.

I agree that, as worded, interrogatory 7(1) is overly broad and burdensome, particularly because much of the information sought by interrogatory 7(1) would be repetitive of information provided in the other 14 subparts of interrogatory 7. I do not, however, agree that the information sought by this interrogatory is irrelevant. Therefore, I shall not compel TSI to respond to interrogatory 7(1). Transcall shall, however, be allowed to rephrase this interrogatory in an effort to limit the scope of this interrogatory, if it so chooses.

VI. Request for Attorney's Fees and Costs

In the pleadings, both parties seek attorney's fees and costs for this discovery dispute. In view of my decision herein to grant, in part, and deny, in part, the Motion to Compel, I find that both parties must bear their own costs associated with pursuing this discovery dispute. Therefore, I hereby deny both requests for attorney's fees and costs.

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VII. Request for Oral Argument

In accordance with Rule 25-22.058, Florida Administrative Code, Transcall filed a request for oral argument on its Motion to Compel. Transcall asserts that oral argument would likely assist me in making a determination on this matter in view of the number of interrogatories and the issues raised.

The pleadings submitted regarding this discovery dispute are, however, extensive and informative. I do not believe that oral argument would provide any further assistance to me in this matter. Therefore, I hereby deny Transcall's request for oral argument.

Based on the foregoing, it is therefore

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that the Motion to Compel filed by Transcall America, Inc. d/b/a ATC Long Distance is granted, in part, and denied, in part, as set forth in the body of this Order. It is further

ORDERED that Telecommunications Services, Inc. and Transcall America, Inc. d/b/a ATC Long Distance shall comply with the determination set forth herein within 2 weeks of the issuance of this Order.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 20th Day of May, 1998.



JOE GARCIA
Commissioner and Prehearing Officer

(S E A L)

BK

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.