

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

JULY 21, 1998

RE: DOCKET NO. 980675-TI - Initiation of show cause proceedings against Cendant Membership Services, Inc. for violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required.

Issue 1: Should the Commission order CMSI to show cause why it should not be fined \$25,000 for apparent failure to comply with Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

Recommendation: Yes. CMSI appears to be providing, or offering with the intent to provide, telecommunications service without a certificate. The Commission should require CMSI to show cause in writing within 20 days of issuance of the Commission's Order why it should not be fined \$25,000 for apparent violation of Rule 25-24.470, Florida Administrative Code,

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures in the Majority column]
Susan Clark
[Signature]
Tom Deaso
[Signature]

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

07751 JUL 23 88

FPSC-RECORDS/REPORTING

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Certificate of Public Convenience and Necessity Required. The company's response must contain specific allegations of fact or law. If CMSI fails to respond to the show cause, the fine will be deemed assessed. If the fine is not paid within five business days after the expiration of the show cause response period after reasonable collection efforts, it should be forwarded to the Office of the Comptroller for collection. If the fine is paid, it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

Issue 2: Should CMSI be ordered to stop all billing in Florida until authorized to do so by the Commission?

Recommendation: Yes. Pursuant to Sections 364.01, 364.08, and 364.19, Florida Statutes, the Commission has jurisdiction over CMSI's LOA. Therefore, staff recommends that the Commission order CMSI to stop all billing in Florida until authorized to do so by the Commission and to obtain certification before the company initiates any billing of charges stemming from such LOAs in Florida.

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Issue 3: Should the Commission order all certificated interexchange companies (IXCs) to discontinue providing interexchange telecommunications service to CMSI, pursuant to Rule 25-24.4701(3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited?

Recommendation: Yes. It appears that CMSI may be operating in Florida without a certificate in violation of Rule 25-24.4701(3), Florida Administrative Code. The order should state that any IXC providing service to the company must contact the Commission at the conclusion of the show cause response period to determine if the show cause proceeding has been concluded.

APPROVED

Issue 4: Should all Local Exchange Companies be ordered not to bill for CMSI until such time as CMSI is certificated?

Recommendation: Yes.

APPROVED

Issue 5: Should the Commission order CMSI to refund customers for unauthorized charges pursuant to Rule 25-4.114, Florida Administrative Code, Refunds?

Recommendation: Yes. Since CMSI has not filed tariffs with this Commission that identify the services it will provide and the prices it will charge, the Commission should order CMSI to dispense refunds, with interest, to all customers who paid the unauthorized charges, in the manner prescribed by Rule 25-4.114, Florida Administrative Code.

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Issue 6: Should this docket be closed?

Recommendation: If staff's recommendation in Issue 1 is approved, then CMSI will have 20 days from issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed. If CMSI timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. The docket should also remain open to process any protest to Issues 2, 3, 4, and 5 that may be filed within 21 days of issuance of the order by a person whose substantial interests are affected by the Commission's proposed agency action.

Staff recommends that if CMSI fails to respond to the Order to Show Cause, the fine should be deemed assessed. If the fine is not received within five business days after the expiration of the show cause response period, it should be forwarded to the Office of the Comptroller for collection. If no timely protest of Issues 2, 3, 4, and 5 is filed and CMSI fails to respond to the Order to Show Cause, this docket may be closed administratively.

APPROVED