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RECORDS AND
REPORTING

July 27, 1998

BY HAND DELIVERY

Ms. Blanca Bayo, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket No. 951232-TT

Dear Ms. Bayo:

Enclosed for filing in the captioned docket are an original and fifteen copies of Transcall's Response to TSI's Second Motion to Compel Production of Raw Call Detail Records.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,



Albert T. Gimbel

- ACK _____
- AFA 3
- APP _____
- CAF _____
- CMU _____
- CTR _____
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- LEG 1
- LIN 3
- OPC _____
- RCH _____
- SEC 1
- WAS _____
- OTH _____

ATG/amb
Enclosures

cc: Mr. Brian Sulmonetti
Parties of Record

DOCUMENT NUMBER-DATE

~~951232~~ 96 JUL 27 8

FPSC-RECORDS/REPORTING

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 v.)
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
Filed: July 27, 1998

**TRANSCALL'S RESPONSE TO TSI'S SECOND
MOTION TO COMPEL PRODUCTION OF RAW CALL DETAIL RECORDS**

Transcall America, Inc. d/b/a ATC Long Distance (Transcall) files this response to TSI's (second) Motion to Compel Production, and as grounds therefor, states:

1. TSI has filed a (second) Motion to Compel Production of Raw Call Detail Records from Transcall, and emphasizes that it is so doing for the second time. TSI's (first) Motion to Compel raw call detail records was previously considered and ruled upon by the Prehearing Officer. TSI's (second) Motion to Compel is a transparent attempt to reargue the issues. Apparently, TSI is unhappy with that ruling and now wants another bite. This is not only inappropriate; it is improper. Procedurally, there is no authorization for this tactic and this effort should be summarily denied.

2. In further response, Transcall objects vigorously to the improper suggestion that Transcall has not made production nor moved for an enlargement of time (TSI's (second) motion.

¶2). In his order dated July 14, 1998, the Prehearing Officer stated:

The information regarding TSI's customers has, however, been extracted from the CDR tapes by Commission staff. I shall require only that this information pertaining to TSI's customers be produced to TSI. As TSI's motion pertains to the Commission staff's audit workpapers, I note that our staff used the CDR tapes to create audit

workpapers 57, 57.4, 57.5, 57.6 and 57.7 As such, I shall require Commission staff to produce audit workpapers 57, 57.4, 57.5, 57.6 and 57.7.

The Prehearing Officer directed Commission Staff, not Transcall, to produce the audit workpapers.

There is absolutely no basis for the assertion that Transcall has failed to do anything required by the Prehearing Officer.

3. Without waiving its position that the Prehearing Officer has previously ruled on the issues raised by TSI and that the motion is improper and should be denied, Transcall attaches hereto as Exhibit A its prior Response to TSI's (first) Motion to Compel Production of Raw Call Detail Records for this same information. To the extent necessary, Transcall incorporates its prior response.

4. Apparently, TSI being unhappy with the information it has received, now wants Transcall to prepare for TSI special reports that are not maintained in the normal course of business, are not business records, and are not even records currently in existence. Requesting records that do not exist goes beyond the scope of discovery.

5. Curiously, TSI continues to complain to the Commission about the CDR tapes even though they have had the opportunity to review them. Since February, Transcall has offered immediate access to the tapes by opposing counsel or an independent third party. It was TSI that elected to not review the tapes under the conditions offered—Transcall was not a party to that decision by TSI. However, TSI continues to insist that Mr. Joel Esquenazi and his associates must have full access to the tapes even before the information is isolated to TSI customer data. The Prehearing Officer has agreed that non-TSI information on the tapes is not relevant to this case and

to allow Mr. Esquenazi, who is a competitor, to review the unedited data would adversely affect Transcall.

6. Even though there is no pending discovery request Transcall remains amenable to providing the tapes to TSI under the conditions outlined in prior communications. Transcall will make the tapes available to opposing counsel or an independent third party upon execution of a separate agreement to treat the information and the tapes confidential and restrict Mr. Esquenazi's access to any non-TSI customer information.

WHEREFORE, Transcall requests that the Prehearing Officer deny TSI's (second) Motion to Compel.

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by regular U.S. mail to: Wesley R. Parsons, Esq., Adorno & Zeder, P.A., 2601 South Bayshore Dr., Ste. 1600, Miami, Florida, 33133, and Beth Keating, Esq., Division of Legal Services, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850, this 27th day of July, 1998.

ATC

ALBERT T. GIMBEL
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ATTORNEYS FOR TRANSCALL
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