

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

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**DATE:** AUGUST 6, 1998

**TO:** DIRECTOR; DIVISION OF RECORDS AND REPORTING (BAYO)

**FROM:** DIVISION OF LEGAL SERVICES (BEDELL) *CB*  
DIVISION OF COMMUNICATIONS (YAMBOR) *JA*

**RE:** DOCKET NO. 980606-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST VALU-TEL, INC. FOR VIOLATION OF RULE 25-24.470, FLORIDA ADMINISTRATIVE CODE, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED

**AGENDA:** 08/18/98 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\980606TI.RCM

**CASE BACKGROUND**

On April 24, 1998, the Florida Public Service Commission received a consumer complaint regarding possible deceptive practices involving three companies: Valu-Tel, Inc. (VTI) Public Communications, Inc. (PCI), and Telecommunications Service Center, Inc. (TSCI). When staff began its investigation, neither VTI nor PCI were registered corporations in the State of Florida.

The complaint included an entry form for a contest with a chance to win prizes which automatically enrolls the consumer into an 800 service. Staff believes that few, if any, consumers entering the contest realized that they were obligating themselves to a \$4.95 one time activation fee, a \$4.95 recurring monthly charge for the 800 service, and \$.25 per minute of use, all billed on their local exchange telephone bill.

VTI and PCI appear to be offering the 800 telephone service without a certificate, and Florida consumers have entered the

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"contest" and subjected themselves to billing by TSCI on local exchange company bills. Staff believes the activities of VTI/PCI and TSCI constitute "cramming" of unauthorized charges on local phone bills. TSCI's participation in this matter is the subject of a separate recommendation in Docket No. 980605.

After this show cause proceeding was initiated, VTI/PCI submitted a proposal to settle the case. (Attachment A, Pg. 5) Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by VTI/PCI to resolve the apparent violations of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

RECOMMENDATION: Yes. (Yambor)

STAFF ANALYSIS: On June 24, 1998, VTI/PCI met with staff to discuss this proposed agency action. It appears, from language on the sweepstakes forms, that VTI and PCI were providing or offering to provide telecommunications service in Florida without a certificate. Although the sweepstakes forms were worded as though VTI/PCI were providing service, VTI/PCI assert that they were merely marketers. Actual telecommunications services were provided by TSCI. Staff has concluded from discussion with the owner that it was not the companies' intent to offer telecommunications service. VTI/PCI submitted an offer to settle which provides:

- VTI and PCI will act as marketing companies only. All offers on LOA's will clearly show the carrier as TSCI.
- Both companies have registered with the Florida Secretary of State.
- VTI and PCI will discontinue the use of a "Sweepstakes" promotion now and in the future.
- VTI and PCI will make a contribution in the amount of \$5,000 to the General Revenue Fund of the State of Florida, with no admission of liability or wrongdoing.

Staff supports VTI/PCI's proposal to cease any marketing practices that may be deceptive specifically the use of sweepstakes. Both companies have now registered as Florida corporations. After discussion with the companies, staff now believes neither company intended to sell telecommunications service in the state.

Therefore, staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable and supports the voluntary contribution to the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, in the amount of \$5,000.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** No. With the approval of Issue 1, this docket should remain open pending the remittance of the \$5,000 voluntary contribution within five business days after the order approving the settlement becomes final. Upon remittance of the \$5,000 settlement, this docket should be closed. The \$5,000 settlement 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. (Bedell)

**STAFF ANALYSIS:** If the Commission approves the staff recommendation in Issue 1, this docket should remain open pending the remittance of the \$5,000 voluntary contribution within five business days after the order accepting the settlement becomes final. Upon remittance of the \$5,000 settlement, this docket should be closed.

June 29, 1998

Catherine Bedell  
Senior Attorney  
State of Florida, Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Dear Ms. Bedell,

The following is a summary of our meeting on June 24, 1998. I will briefly explain these and also request that the Commission accept my proposal that \$5,000 be paid as a result of an error of judgment on my part, as President, of the companies I manage.


I am President of two small marketing companies, both located at the same address. Valu-Tel, Inc. (VTI) was incorporated in Georgia in 1993 and Public Communications, Inc. (PCI) in 1991. Both of these companies are marketing companies only and have no switching equipment or telecommunications tariffs. I made an error in listing Valu-Tel, Inc. and Public Communications, Inc. on the order forms used for customers to order residential 1-800 service. Both companies, PCI and VTI, utilize Telecommunications Service Center, Inc., (TSCI) for billing and long distance services. TSCI is a long distance carrier with tariffs and switching equipment located in Tampa, Florida.

The second action taken was to discontinue the use of "sweepstakes" with the marketing of the residential 1-800 service. This was done on June 18, 1998. This was the last day both companies accepted new orders for the residential 1-800 service we market. Neither company will utilize a "sweepstakes promotion" in the future in conjunction with the order form process.

The third issue which has now been corrected and was actually started prior to my notification from you is that both companies are now registered with the Secretary of State to do business in Florida using the names, Georgia Public Communications, Inc. and Georgia Valu-Tel, Inc.

I sincerely apologize for my errors and hope that my request for a fine of \$5,000 is accepted.

Very truly yours,

  
Myron Newman, President  
Valu-Tel, Inc.  
Public Communications, Inc.