



# Public Service Commission

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

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RECORDS AND REPORTING

**DATE:** AUGUST 20, 1998

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

**FROM:** DIVISION OF LEGAL SERVICES (BEDELL) *CB MCB*  
DIVISION OF COMMUNICATIONS (YAMBOR) *JAJ W*

**RE:** DOCKET NO. 980605-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST TELECOMMUNICATIONS SERVICE CENTER, INC. FOR VIOLATION OF RULE 25-24.485, FLORIDA ADMINISTRATIVE CODE, TARIFFS

**AGENDA:** 09/01/98 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\980605TI.RCM

### CASE BACKGROUND

On April 24, 1998, the Florida Public Service Commission received a consumer complaint regarding possible deceptive practices involving three companies: Telecommunications Services Center, Inc. (TSCI), Valu-Tel, Inc. (VTI), and Public Communications, Inc. (PCI).

The complaint included a sweepstakes entry form offered by VTI/PCI with a chance to win prizes but 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, all billed to their local exchange telephone bill.

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Further investigation found TSCI, a certificated company, named as the service and billing provider for VTI/PCI. Staff is aware that Florida consumers have been entering the VTI/PCI contest, thereby making themselves subject to being billed by TSCI at a later time on local exchange company bills. Staff believes the activities of VTI/PCI and TSCI, jointly, constitutes "cramming" of unauthorized charges on local phone bills. VTI and PCI's participation was addressed in Docket No. 980606 at the 8/19/98 Agenda.

A TSCI officer verified that TSCI provided billing and telecommunications service to VTI. TSCI also confirmed that VTI's offer to consumers was a \$4.95 activation fee, a \$4.95 monthly fee, and \$.25 per minute charge. These rates are contrary to TSCI's filed tariff. Further, TSCI agreed with staff that the entry/LOA was misleading.

Upon initiating the show cause proceedings, TSCI negotiated with staff and proposed 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 TSCI to resolve the apparent violations of Rule 25-24.485, Florida Administrative Code, Tariffs?

RECOMMENDATION: Yes. (Yambor)

STAFF ANALYSIS: On July 28, 1998, TSCI offered to discuss with staff the proposed agency action. TSCI informed staff that, on May 8, 1998, it had filed for bankruptcy under Chapter 11. However, Commission action is considered a "pre-petition" Chapter 11 proceeding and TSCI is, therefore, able to address the alleged rule violations.

TSCI identified 117 overcharged customers and asserts that the only charge to those Florida customers was the \$4.95 activation fee and that no customer actually used the 800 offer. TSCI offers the following:

- All tariff updates and regulatory affairs will be processed by an outside consulting firm. This will accommodate timely and accurate updates.
- 117 identified overcharged customers will receive a \$4.95 credit through their local telephone service, thereby correcting the activation charge not in TSCI's tariff.
- TSCI will make a contribution in the amount of \$1,000 to the General Revenue Fund of the State of Florida, with no admission of liability or wrongdoing.

Considering TSCI's pending bankruptcy, the limited nature of the alleged tariff violation, its willingness to cooperate and resolve the problem, staff supports TSCI's settlement proposal. Additionally, TSCI has assured the Commission that affected customers will receive a credit for the overcharges and future tariff amendments will be addressed as needed.

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 \$1,000.

**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 \$1,000 voluntary contribution within five business days after the order approving the settlement becomes final and pending completion of and receipt of a report on crediting accounts. Upon remittance of the \$1,000 settlement, this docket should be closed. The \$1,000 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)

DOCKET NO. 980605TT  
DATE: August 20, 1998

**STAFF ANALYSIS:** If the Commission approves the staff recommendation in Issue 1, this docket should remain open pending the remittance of the \$1,000 voluntary contribution within five business days after the order accepting the settlement becomes final. Upon remittance of the \$1,000 settlement, and completion of the crediting of accounts with a report on the credits consistent with the requirements of Rule 25-4.114 (7), Florida Administrative Code, Refund Reports, this docket should be closed.

# TSC

TELECOMMUNICATIONS SERVICE CENTER, INC.

412 E. Madison St Suite 1200 Tampa FL 33602  
(813) 228-0888 Fax (813) 222-0875  
Customer Service 1 800 366-6350

ATTACHMENT A  
DOCKET NO. 980605-T1  
August 20, 1998

July 28, 1998

Katherine Bedell  
Florida Public Service Commission  
Legal Division  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Dear Ms Bedell:

In response to the Show Cause Proceeding currently pending, the following information is respectfully submitted for the Commission's consideration.

The residential 800 service in question is a product that had been marketed by ValueTel. This product, which TSC billed, included a \$4.95 activation charge that was not in our tariff. TSC has since corrected this and amended the tariff to accurately reflect this product. In addition, TSC has contracted with Technologies Management, Inc., to manage regulatory affairs for our company. All tariff updates will now be processed through this Orlando based company thereby avoiding any future delays in tariff updates.

The extent of TCS's participation in this particular program was limited to service bureau activities. TSC never involved itself with the marketing of the contest or the product associated with it. ValueTel was the marketing company responsible for the sweepstakes and the corresponding LOA. I respectfully suggest that the issue of deceptive marketing practices is more appropriately deferred to Myron Newman as there was no collaborative effort on the part of TSC.

With regard to the Commission's directive to refund all affected customers, the following is offered. Because TSC has been in Chapter 11 since May 8, 1998, this transaction is considered to be pre-petition and as such we are restricted from issuing refunds. Instead, TSC proposes to issue credits to the 117 customers affected through their local telephone company. This satisfies the refund requirement without having to issue actual checks. TSC is tariffed for the MRC of \$4.95, and there appears to have been no actual usage on any of the aforementioned accounts. The total refund amount would be \$579.15, \$4.95 multiplied by 117 customers. Once the Commission has approved the letter that would explain the nature of the adjustment to the customer, the refunds can be processed.

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ATTACHMENT A  
DOCKET NO. 980605-TI  
August 20, 1998

Finally, TSC requests consideration of a settlement offer in the amount of \$1,000 as a means to bring closure to this unfortunate incident. TSC is prepared to comply with the Commission's directive and wishes to maintain an open dialogue until such time as this matter is concluded. Please contact me at your convenience to discuss any questions or concerns that you may have.

Sincerely,



Stacy Acampora  
Vice President  
Marketing & Alternate Channel Sales