



Public Service Commission

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FISC

DATE: AUGUST 20, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Aji wd*
DIVISION OF LEGAL SERVICES (BEDELL) *MB MCB*

RE: DOCKET NO. 980739-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST TOTAL NATIONAL TELECOMMUNICATIONS, INC. D/B/A TOTAL WORLD TELECOM ("TWT") FOR VIOLATION OF RULES 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES; 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; 25-24.480(2)(A)(B), F.A.C., RECORDS AND REPORTS; RULES INCORPORATED; AND 25-24.935, F.A.C., DISCONTINUANCE OF SERVICE.

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

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980739.RCM

CASE BACKGROUND

Total National Telecommunications, Inc., d/b/a Total World Telecom ("TWT") is an interexchange telecommunications carrier and holder of certificate number 3600, which was issued December 23, 1994.

Staff received a consumer complaint which advised that a prepaid calling card was purchased for \$20. The consumer stated that when he attempted to use the card, he discovered the access and customer service toll-free numbers had been disconnected. Staff wrote the company at the address listed in Master Commission Directory (MCD) records. The letter was returned by the U. S. Postal Service stamped "undeliverable as addressed" and "forwarding

DOCUMENT NUMBER-DATE

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FISC-RECORDS/REPORTING

DOCKET NO. 980739-1
DATE: August 20, 1998

order expired." Staff called the telephone number listed in MCD and received a recording that the number had been disconnected. In addition, staff called the two toll-free numbers listed on the calling card and confirmed that the numbers were no longer in service. Therefore, staff believes the following recommendations to require TWT to show cause why it should not be fined a total of \$4,500 or have its certificate canceled for rule violations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should TWT be required to show cause why it should not be fined \$1,500 or have its certificate number 3600 canceled for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should order TWT to show cause in writing within 21 days of the issuance date of the order why it should not be fined \$1,500 or have its certificate canceled for apparent failure to comply with Rule 25-4.043, Florida Administrative Code. Any collected fine monies 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. (Isler)

STAFF ANALYSIS: Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries, states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission Inquiry.

On May 26, 1998, staff wrote TWT and requested a written response to a consumer complaint by June 10, 1998. The letter was returned by the United States Postal Service on June 3, 1998, stamped "undeliverable as addressed" and "forwarding order expired." On June 5, 1998, staff called the telephone number listed in MCD and received a recording advising the number had been disconnected. Therefore, staff believes that TWT should be required to show cause why it should not be fined \$1,500 or have its certificate canceled for not responding to staff.

ISSUE 2: Should TWT be required to show cause why it should not be fined \$500 or have its certificate number 3600 canceled for apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees?

RECOMMENDATION: Yes. The Commission should order TWT to show cause in writing within 21 days of the issuance date of the order why it should not be fined \$500 or have its certificate canceled for apparent failure to comply with Rule 25-4.0161, Florida Administrative Code. Any collected fine monies 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. (Isler)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Staff recently learned that although TWT has paid its regulatory assessment fees, the payments were paid after January 30 for the years 1995, 1996, and 1997. Therefore, the company owes the Commission for the statutory penalties and interest for the three previous years. Staff believes the company has failed to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, and should be required to show cause why it should not be fined \$500 or have its certificate number 3600 canceled for rule violations.

ISSUE 3: Should TWT be required to show cause why it should not be fined \$1,000 or have its certificate number 3600 canceled for apparent violation of Rule 25-24.480(2)(a) and (b), Florida Administrative Code, Records and Reports; Rules Incorporated?

RECOMMENDATION: Yes. The Commission should order TWT to show cause in writing within 21 days of the issuance date of the order why it should not be fined \$1,000 or have its certificate canceled for apparent failure to comply with Rule 25-24.480(2)(a) and (b), Florida Administrative Code. Any collected fine monies 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. (Isler)

STAFF ANALYSIS: Rule 25-24.480(2)(a) and (b), Florida Administrative Code, provides that each company shall file the following information with the Divisions of Communications and Records and Reporting within 10 days after the changes occur: the street address of the certificate holder; and the name; title; and phone number of the individual responsible for contact with the Commission.

It has been well over 10 days and staff has not been informed of the provider's correct mailing address, phone number, or liaison information. Therefore, staff recommends that TWT be required to show cause why it should not be fined \$1,000 or have its certificate number 3600 canceled for violation of reporting requirements.

ISSUE 4: Should TWT be required to show cause why it should not be fined \$1,500 or have its certificate number 3600 canceled for apparent violation of Rule 25-24.935, Florida Administrative Code, Discontinuance of Service?

RECOMMENDATION: Yes. The Commission should order TWT to show cause in writing within 21 days of the issuance date of the order why it should not be fined \$1,500 or have its certificate canceled for apparent failure to comply with Rule 25-24.935, Florida Administrative Code. Any collected fine monies 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. (Isler)

STAFF ANALYSIS: Rule 25-24.935, Florida Administrative Code, Discontinuance of Service, states:

A company shall be responsible for ensuring, either through its contracts with its network provider, distributors, or marketing agents, or other means, that end user purchased cards remain usable in accord with Rule 25-24.920(10).

On May 20, 1998, staff received a complaint forwarded to the Commission by the Office of the Attorney General. The consumer stated that he had purchased a prepaid calling card for \$20 and was unable to use it because the toll-free numbers for access and customer service had been disconnected.

On June 3, 1998, staff's letter to TWT was returned by the United States Postal Service and marked "undeliverable as addressed" and "forwarding order expired." Staff called the telephone number listed in MCD records and the two toll-free numbers listed on the prepaid calling card. All three numbers had recordings that advised the numbers had been disconnected. Staff then called Directory Assistance, but was advised there was not a new listing. Therefore, staff recommends that TWT be required to show cause why it should not be fined \$1,500 or have its certificate number 3600 canceled for rule violations.

ISSUE 5: Should this docket be closed?

RECOMMENDATION: If staff's recommendations in Issues 1 - 4 are approved, then TWT will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amounts proposed or have its certificate canceled. If TWT timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If TWT does not respond to the Commission's Order to Show Cause, the fines should be assessed. Staff recommends that if TWT fails to respond to the Order to Show Cause, and the fines are not received within five business days after the expiration of the show cause response period and provide staff with the information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code, TWT's certificate should be canceled and this docket closed administratively. (Bedell)

STAFF ANALYSIS: If staff's recommendations in Issues 1 - 4 are approved, then TWT will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amounts proposed or have its certificate canceled. If TWT timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If TWT does not respond to the Commission's Order to Show Cause, the fines should be assessed. Staff recommends that if TWT fails to respond to the Order to Show Cause, and the fines are not received within five business days after the expiration of the show cause response period and provide staff with the information required by Rule 25-24.480(2)(a) and (b), Florida Administrative Code, TWT's certificate should be canceled and this docket closed administratively.