



# Public Service Commission

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

## -M-E-M-O-R-A-N-D-U-M-

RECORDS AND REPORTING

AUG 20 PM 1:21

RECEIVED-FPSC

**DATE:** 08/20/98

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

**FROM:** DIVISION OF LEGAL SERVICES (BEDELL) *BNB/BRS*  
 DIVISION OF COMMUNICATIONS (YAMBOR) *Yag*  
 DIVISION OF CONSUMER AFFAIRS (JOHNSON) *J*

**RE:** DOCKET NO. 980950-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST CORPORATE SERVICES TELCOM, INC. FOR VIOLATION OF RULE 25-4.118, FLORIDA ADMINISTRATIVE CODE, INTEREXCHANGE CARRIER SELECTION

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

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\980950TI.RCM

### CASE BACKGROUND

On June 1, 1996, the Commission granted Corporate Services Telcom, Inc. (CSTI) certificate number 4441 to provide intrastate interexchange telecommunications service.

Thereafter, from July 31, 1996 through July 28, 1998, the Commission's Division of Consumer Affairs has received 181 consumer complaints against CSTI. At least 55 of these customer complaints were closed by the Division of Consumer Affairs, with the concurrence of telecommunications staff, as unauthorized carrier change (slamming) infractions in apparent violation of Rule 25-4.118, Florida Administrative Code.

DOCUMENT NUMBER-DATE

08965 AUG 20 98

FPSC-RECORDS/REPORTING

It appears that CSTI is submitting numerous preferred interexchange carrier (PIC) changes with apparent fraudulently obtained customer verbal authorizations. Also, staff has discovered that CSTI had its corporate status revoked by the Florida Secretary of State on September 26, 1997.

In light of numerous complaints received from consumers, and apparent lack of consumer third party authorization, it is staff's opinion that CSTI has apparently violated Commission rules and has not established sufficient safeguards to protect consumers from unauthorized carrier changes. Therefore, staff believes the following recommendations are appropriate.

#### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order CSTI to show cause why it should not have Certificate Number 4441 canceled or be fined \$10,000 per violation for a total of \$550,000 for apparent failure to comply with Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection?

RECOMMENDATION: Yes. The Commission should order CSTI to show cause in writing within 21 days of the issuance date of the order why it should not be fined \$10,000 per violation for a total of \$550,000 or have its certificate canceled for apparent failure to comply with Rule 25-4.118, 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. (Yambor)

STAFF ANALYSIS: The Division of Consumer Affairs received its first slamming complaint against CSTI on July 31, 1996 just two months after CSTI received its certificate. Since that time, the Division of Consumer Affairs has closed a total of 55 consumer complaints against CSTI as unauthorized carrier change (slamming) infractions through July 16, 1998.

Examples of complaints received from consumers include the following:

On December 23, 1997, Mr. Marvin Potter reported his long distance carrier had changed without his authorization. (Attachment B, Pg 7) Investigation by Consumer Affairs found the third party verifier tape referred to the "Corporate Services Group Pricing Plan featuring AT&T lines and operators" thus concealing information the customer was [in fact] switching his long distance carrier.

On December 31, 1997, Mr. Jimmy Cliff, of the ABC Lending Company, sent Consumer Affairs a written complaint (Attachment A, Pg. 6) that CSTI had changed his long distance carrier without authorization. Mr. Cliff tried in vain to get CSTI to switch him back. Consumer Affairs noted that CSTI did not meet any Commission rules required to change Mr. Cliff's long distance carrier. This complaint is also being investigated by the FCC.

On January 16, 1998, Mary E. Riley, President of Management and Concierge Services filed a complaint with the Commission, on behalf of her company, stating her long distance company was switched without her permission. (Attachment C, Pg. 8) CSTI asserts it had third party verification. Tape verification did not refer to CSTI as a company as required by Commission rules. It appears the customer was misled.

On February 25, 1998, Ringo Yeargin filed a complaint with the Division of Consumer Affairs. Mr. Yeargin contends his long distance carrier was switched by deception. (Attachment D, Pg. 9) He states his wife gave permission to switch since she thought they were the AT&T company doing an upgrade. Consumer Affairs repeatedly requested a verification tape but none was provided.

On April 23, 1998, Nancy Pond, joint owner of Gulfstream Paint & Supplies, filed a complaint forwarded from the Department of Agriculture to Consumer Affairs. Mrs. Pond asserts her long distance carrier had been changed without authorization. (Attachment E, pp 10,11). CSTI upon their own investigation, found that a valid verification was not done by a third party.

Rule 25-4.118 (2) (d), Florida Administrative Code, requires:

(D) Ballots or letters will be maintained by the IXC for a period of one year

Rule 25-4.118 (6)(a) and (b), Florida Administrative Code, requires that the IXC shall provide the following disclosures when soliciting a change in service from the customer:

DOCKET NO. 980950-TI  
DATE: August 20, 1998

- (a) identification of the IXC
- (b) the purpose of visit or call is to solicit a change of the PIC of the customer

The Division of Consumer Affairs requested third party verification on each of these complaints. Of the two tapes provided, both indicated deception. Failure to maintain LOAs is an apparent violation of Rule 25-4.118 (2) (d), Florida Administrative Code. Further, since some customers allege that CSTI did not identify itself or the intent of the call, these complaints indicate that CSTI is in apparent violation of 25-4.118 (6) (a) and (b), Florida Administrative Code, and is operating in a willful and deceptive manner. Accordingly, by Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each day a violation continues, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Staff believes that CSTI's apparent conduct in switching PICs without customer authorization has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as CSTI's conduct at issue here, would meet the standard for a "willful violation."

Based on the number of complaints received by the Division of Consumer Affairs, and the 55 complaints closed by the Division of Consumer Affairs as unauthorized carrier change infractions (slamming), staff believes there is sufficient cause to order CSTI to show cause in writing within 21 days of the issuance date of the order why it should not be fined \$10,000 per infraction for a total of \$550,000 or have its certificate canceled for its apparent violations of Rule 25-4.118, Florida Administrative Code.

DOCKET NO. 980950-TI  
DATE: August 20, 1998

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, then CSTI 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 amount proposed or have its certificate canceled. If CSTI timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If CSTI does not respond to the Commission's Order to Show Cause, the fines should be assessed. While staff does not recommend in Issue 1 that CSTI's certificate be canceled for slamming violations at this time, staff does recommend that if CSTI 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, CSTI's certificate should be canceled and this docket closed administratively. (Bedell)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, then CSTI 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 amount proposed or have its certificate canceled. If CSTI timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If CSTI does not respond to the Commission's Order to Show Cause, the fines should be assessed. While staff does not recommend in Issue 1 that CSTI's certificate be canceled for slamming violations at this time, staff does recommend that if CSTI 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, CSTI's certificate should be canceled and this docket closed administratively.



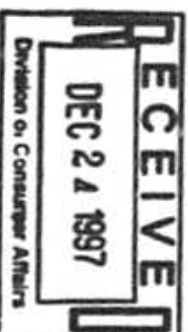


**ABC LENDING, INC.**  
Licensed Correspondent Mortgage Lender

ATTACHMENT  
DOCKET NO. 9809560-T1  
U.S. 120, 1998

December 19, 1997

Florida Public Service Commission  
2540 Shumard Oak Blvd  
Tallahassee, FL 32399-0867



To Whom It May Concern:

This letter is to serve as a complaint regarding the change of our long distance service without my knowledge or authorization.

In July of 1997, ABC Lending received a billing statement for the telephone number (954)-981-8880 from Corporate Services, 7830 Freeway Circle, Ste. C Middleburg Heights, OH 44130. We never authorized them to process our long distance calls. We had other arrangements with another long distance carrier (American Business Communications 6065 N.W. 167th Street Miami, FL 33015).

I spoke to a representative at Corporate Services by the name of Diane at phone number (800) 819-9334 a couple of times in the month of July after receiving the statement of charges. End result was, she only confirmed someone here authorized our switch. No one ever did. They promised me that I could listen to the taped conversation after they located it.

Finally, after numerous attempts, on 9/24/97 my office administrator spoke with Diane again and she listened to the taped conversation of our receptionist and the representative from Corporate Services. Here is a summary of the taped conversation. After the telemarketer highlighted the services they had to offer, the question was asked "do you have authorization to switch long distance services?", response given by my receptionist was "hold on a moment." When she returned to the call my receptionist immediately asked the representative questions regarding AT&T services. The question was never answered or asked again.

At this time I have already informed Bell South, our local telephone company to never switch our long distance service without written authorization from myself. Also, my preferred carrier has reconnected us back to them.

At this time I have spoken to another representative by the name of Tom at Corporate Services. I have requested them to send me an invoice with statements and stating we are not responsible for any other charges. Their response to me, "I will get back with you." As of this date, I have had no response from them.

Please take this matter into consideration as a "slam" and take appropriate measures to protect us and other consumers.

Sincerely,

  
Anthony Clark  
President  
ABC Lending, Inc.

afjc

2525 North State Road 7 • Suite 120 • Hollywood, Florida 33021  
(954) 981-8880 • Fax (954) 981-4242

Name POTTER, MARVIN  
Address 4126 ENTRADA COURT  
  
City/Zip SARASOTA 34238 County SAR  
Account Number   
Caller's Name

Company CORPORATE SERVICES TELCOM, INC.  
Attn. JIM BARBER 198586  
Consumer's  
Telephone # (941)-922-1498  
Can Be  
Reached   
Note   
Informal Conf.

Request No. 1985861  
By JRD Time 3:14 PM Date 12/23/97  
To CO Time FAX Date 12/23/97  
Type S Form Phone  
Category   
Infraction LS-138  
Closed by JRD Date 02/22/98  
Reply Received L

Customer says his PIC was switched without his authorization. Please provide proof of authorization and rerate calls.

1/2/98 Report received.

1/7/98 FAX TO CST: YOUR REPORT DOES NOT PROVIDE THE INFORMATION REQUIRED. WE NEED TO HAVE THE SPECIFICS OF THE VERIFICATION:

WHEN WAS THE CALL MADE?

WHO DID YOU SPEAK TO?

DO YOU HAVE A TAPE OF THE VERIFICATION CALL?

1/12/98 Report and tape received.

2/22/98 Closed with letter.

ATTACHMENT B  
DOCKET NO. 980950-T1  
August 20, 1998

**CONSUMER REQUEST**

**FLORIDA PUBLIC  
SERVICE  
COMMISSION**

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL. 32399-0850  
904-413-6100

PLEASE RETURN THIS FORM  
WITH REPORT OF ACTION TO:

DUE: 01/09/98

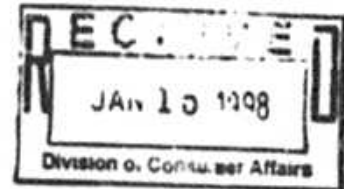


**MANAGEMENT & CONCIERGE SERVICES  
OF MARTIN, INC.**

ATTACHMENT C  
DOCKET NO. 980950-T1  
August 20, 1998

T1446

January 12, 1998



Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399

Attn: Ellen

Re: Corporate Services

Gentlemen:

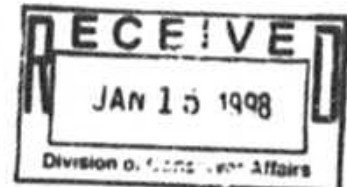
My company's long distance service was switched to Corporate Services without my permission or the permission of anyone in my company. I have switched my account back to AT&T.

Enclosed are copies of my bills. I have been trying to resolve this matter since October 11, 1997. Despite repeated telephone discussions and promises by Corporate Services they have to date been unable to locate the tape to resolve this matter. The December invoice included a \$4.83 monthly service fee from Corporate Services.

Please help me to resolve this matter.

Sincerely,

*Mary Ellen Riley*  
Mary Ellen Riley  
President



Enclosures



2053201

Ringo Yeargin

8286 So. Vine Ter.  
Floral City Fla. 34436 Ph.352-860-1302

To Whom It May Concern

I was swiched without my permission from  
AT&T to Corp. Ser. I swiched myself back.  
Enclosed is copy of my bills please help me.  
P.S. They called my wife & told her they were  
AT&Tcorp. ser.doing a upgrade & would.  
She give them permission & thinking they were  
AT&T she said yes.

Sincerily yours  
Ringo Yeargin  
8286 So.Vine Ter.  
Floral City Fla. 34436

98-03-08246

ATTACHMENT E  
DOCKET NO. 980950-T1  
August 20, 1998

GULFSTREAM PAINT & SUPPLIES  
1320 NORTH FEDERAL HIGHWAY  
DELRAY BEACH, FLORIDA 33485  
(561) 278-3203

DIVISION OF  
CUSTOMER SERVICES

MAR 26 AM 9:46



March 23, 1998

Corporate Services  
c/o Bell South  
P.O. Box 70807  
Charlotte, NC  
28272-0807

Dear Sir:

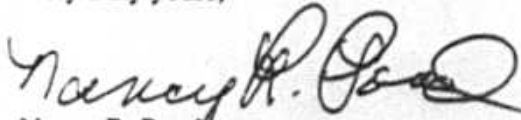
Please find enclosed my check in the amount of \$719.72.

On Thursday, March 19th, after receiving my current statement I made the following calls:

1. Corporate Services - I informed them that I had not given permission to change my long distance services from ATT to Corpoptate Services and also that I had not made all the calls for which I had been charged. As this is a business number a log is kept with regard to long distance calls. The representative from Corporate Services (Lonnie) informed me that a tape was made with regard to this change. However, this tape was not in her hands and she could not play it for me, but she would have it the next day.
2. BellSouth - I asked why the switch was allowed as I had a freeze on my account for only ATT long distance services. She informed me that Corporate Services was probably a branch of ATT.
3. AT&T - When I contacted AT&T, I was informed that the name on my account read some winery and the representative asked if I had always had the same billing name. My billing name has not changed since I went into business 19 years ago. She also asked if I could find in small print somewhere on my statement that Corpoptate Services was part of AT&T. I have searched my statement thoroughly and did not find anything stating this. I then had her switch my long distance services back to AT&T which she did and kindly waived the switch fee.

As of this date I have not heard from Corporate Services with regard to the tape. At such time as I hear that tape giving consent to change my long distance services I will forward my check for the monthly service fee. I am only paying for the calls that are recorded in by business log.

Very truly yours,



Nancy R. Pond  
Ray A. Pond DBA Gulfstream Paint & Supplies  
1320 North Federal Highway  
Delray Beach, FL 33483  
(561) 278-3203 (561) 278-7612

cc: Division of Consumer Services  
Mayo Building, 2nd Floor  
Tallahassee, FL 32399-0800

Department of Legal Affairs  
Attorney Generals Office  
Tallahassee, FL 32399