



# 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-

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FOR CHANG  
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REC'D - FPSC

**DATE:** DECEMBER 22, 1998

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

**FROM:** DIVISION OF LEGAL SERVICES (B. KEATING) *DK mcs*  
DIVISION OF COMMUNICATIONS (T. WILLIAMS) *TEW*

**RE:** DOCKET NO. 980914-TI - INITIATION OF SHOW CAUSE PROCEEDING  
AGAINST NETWORK ACCESS, INC. FOR VIOLATION OF RULE 25-  
4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES.

**AGENDA:** 01/05/99 - REGULAR AGENDA - SHOW CAUSE.

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\980914.PCM

### CASE BACKGROUND

On May 29, 1998, Commission staff mailed a letter to Mr. Jorge A. Puente-Duany, Controller, Network Access, Inc., 1334 North State Road 7, Margate, FL 33063-2843, asking that he explain certain charges to a telephone number. No response was received; therefore, on July 23, 1998, a recommendation was filed recommending that the Commission initiate a show cause proceeding against Network Access, Inc. for violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries.

On July 31, 1998, a letter was mailed to Mr. William Talbott, Executive Director, Florida Public Service Commission, from Mr. David O. Klein, Klein, Zelman, Rothermel & Dichter, L.L.P., Legal Counsel for Network Access, Inc., requesting that this matter be deferred from the Commission's August 4, 1998, agenda. This

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request was granted on August 3, 1998. On September 8, 1998, the company's legal counsel sent another letter advising that the dispute concerning telephone charges was the results of a billing error on behalf of Network Access, Inc.'s billing entity and that a full credit was being issued. At this time, full credit has been issued and this docket can be closed.

**STAFF RECOMMENDATION**

**ISSUE 1:** Should Network Access, Inc. be ordered to show cause why it should not be fined \$25,000 or have its Certificate No. 3546 canceled for violation of Rule 25.4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

**RECOMMENDATION:** No. Staff does not believe a show cause order should be issued at this time. Network Access, Inc. has satisfactorily responded to staff's inquiries.

**STAFF ANALYSIS:** As set forth in the Case Background, the Office of the Executive Director received a letter from Network Access, Inc. on September 8, 1998. The letter was responsive to staff's prior inquiries. Therein, Network Access indicated that the billing dispute that staff had inquired about had been resolved and a full refund had been issued. (See Attachment A)

While staff notes that Network Access's response was not timely in accordance with Rule 25-4.043, Florida Administrative Code, staff is satisfied with Network Access's response. Network Access has also been timely in its subsequent responses to staff's inquiries regarding this matter. For these reasons, staff recommends that the Commission not issue an Order requiring Network Access to show cause why it should not be fined or have its Certificate canceled for apparent violation of Rule 25-4.043, Florida Administrative Code.

Docket No. 980914-11  
Date: December 22, 1998

ISSUE 2: Should this Docket be closed?

RECOMMENDATION: Yes. If the Commission approves staff's recommendation in Issue 1, no further issues will remain for the Commission to address. Therefore, this Docket should be closed.

STAFF ANALYSIS: Yes. If the Commission approves staff's recommendation in Issue 1, no further issues will remain for the Commission to address. Therefore, this Docket should be closed.

*Williams*

*CMU*

**KLEIN, ZELMAN, ROTHERMEL & DICHTER, L.L.P.**

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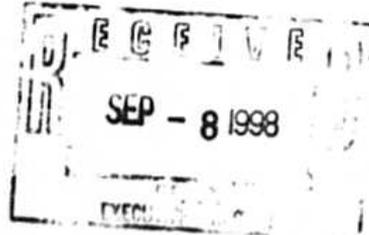
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CMU



September 4, 1998

VIA FEDERAL EXPRESS

Mr. William Talbott  
Executive Director  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

**RECEIVED**

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CMU

Re: Docket No. 980914-TI

Dear Mr. Talbott:

We represent Network Access Inc. in the above-referenced matter. Our discussions with principals of Network Access Inc. reveal that the dispute concerning telephone charges billed to telephone number (813) 677-5286 is the result of a service error on the part of our client's billing entity, Long Distance Billing Company ("LDBC").

Network Access Inc. is a telecommunications billing aggregator for international and domestic carriers and audiotext providers. Pursuant to a contractual arrangement between Network Access Inc. and one of its billing subagents, LDBC, Network Access Inc. forwards the billing records of its clients to LDBC, who formats the billings and then sends the records on to the Local Exchange Carrier ("LEC") in the applicable jurisdiction for submission to customers. LDBC then collects from the LEC and the money is forwarded on to Network Access Inc.

As you are well aware, Bell South controls approximately ninety percent (90%) of the State's calling areas. Because Network Access Inc. does not have a billing and collection agreement with Bell South, LDBC has been instructed not to bill all calls from the State and to do no billing in that jurisdiction on behalf of Network Access Inc.'s clients. However, Network Access Inc. does have billing and collection agreements with GTE and Centel who, together, service the remaining ten percent (10%) of the State of Florida.

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- CMU 1
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Mr. William Talbott  
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What we believe occurred here was that telephone number (813) 677-5286, a GTE account, inadvertently slipped through LDBC's blocking system and several international calls were billed to the customer. Unfortunately, this screening error was not discovered in time to avoid this billing mistake.

LDBC has been apprised of its screening error and has been admonished again to prevent any future billings for traffic originating from the State of Florida. On behalf of Network Access Inc., we apologize for the mistake and would like to take this opportunity to offer a full credit to the affected customer and to adopt a policy of issuing credits to Florida residents upon their request. I hope that this adequately addresses the concerns of the Commission and obviates the need to proceed with further proceedings on this matter.

Thank you for your prompt attention to this matter.

10/7/98  
David express that there  
are no other customers  
in Florida

Respectfully submitted,



David O. Klein

cc: J. Alan Taylor, Chief

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