



Public Service Commission

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RECORDS AND REPORTING

DATE: JANUARY 21, 1999

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

FROM: DIVISION OF LEGAL SERVICES (MILLER) *Jam mls*
DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*

RE: DOCKET NO. 981869-TI - INITIATION OF SHOW CAUSE PROCEEDING AGAINST VALUE TEL, INC. FOR APPARENT VIOLATION OF RULE 25-24.470, FLORIDA ADMINISTRATIVE CODE, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED, RULE 25-4.118, FLORIDA ADMINISTRATIVE CODE, INTEREXCHANGE CARRIER SELECTION, AND RULE 25-4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO COMMISSION STAFF INQUIRIES

AGENDA: 02/02/99 - REGULAR AGENDA - SHOW CAUSE - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981869.RCM

CASE BACKGROUND

On December 13, 1994, Order No. PSC-941547-FOF-TI, in Docket No. 941304-TI, was issued granting certificate no. 3962 to Value Tel, Inc. (Value Tel) in order to provide interexchange telecommunications service in Florida. On September 23, 1997, Order No. PSC-971099-FOF-TI, in Docket No. 970942-TI, was issued canceling its certificate for failure to pay regulatory assessment fees, including statutory penalties and interest.

Staff received a complaint regarding apparent unauthorized charges billed to the customer's account. On June 1, 1998, staff faxed the complaint to Value Tel with a requested response date of June 16, 1998. On July 20, 1998, staff contacted the company and the company stated staff would receive a response by June 24, 1998. On August 13, 1998, based on staff's review of the information provided by the customer and the local exchange company, it

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appeared that the customer's long distance service had been switched without authorization. In this regard, staff notified Value Tel of the apparent slamming complaint and requested that Value Tel rerate the customers bill. Staff also requested a response from Value Tel by August 28, 1998. Staff contacted the customer to verify that no additional billing or collection efforts had been made on behalf of Value Tel. On October 7, 1998, staff sent a certified letter to Value Tel informing it of the failure to respond regarding the apparent unauthorized charges and that it was apparently operating in Florida without a certificate. This letter was signed for and received on October 13, 1998, but to date, no response has been received.

Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order Value Tel, Inc. to show cause in writing why a fine of \$25,000 for apparent violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity, \$10,000 for apparent violation of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection, and \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries should not be assessed?

RECOMMENDATION: Yes. The Commission should require Value Tel to show cause in writing within 21 days of the issuance of the Commission's Order why it should not be fined \$25,000 for apparent violation of Rule 25-24.470, Florida Administrative Code, \$10,000 for apparent violation of Rule 25-4.118, Florida Administrative Code, and \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code. The company's response should contain specific allegations of fact and law. If Value Tel fails to respond to the show cause, the fines should be deemed assessed. If the fines are paid, they should be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. If the fines are not paid after reasonable collection efforts by the Commission, they should be forwarded to the Comptroller's Office for collection. (Biegalski)

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STAFF ANALYSIS: Rule 25-24.470, Florida Administrative Code, states, in pertinent part:

(1) No person shall provide intrastate interexchange telephone service without first obtaining a certificate of public convenience and necessity from the Commission.

Based on the information received from the customer and the local exchange company, it appears that Value Tel is providing telecommunications service in Florida without a certificate, in apparent violation of Rule 25-24.470, Florida Administrative Code.

In addition, Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection, states:

(1) The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization.

Value Tel has not been provided staff with any information obtained from the customer authorizing the change in service. Therefore, Value Tel is in apparent violation of Rule 25-4.118, Florida Administrative Code.

Furthermore, Rule 25-4.043, Florida Administrative Code, 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.

Staff sent a certified letter to Value Tel on October 7, 1998, with a response date of October 22, 1998. The letter was signed for and received on October 13, 1998. To date, no response has been received.

Accordingly, staff recommends that the Commission order Value Tel to show cause why a \$25,000 fine for apparent violation of Rule 25-24.470, Florida Administrative Code, \$10,000 for apparent violation of Rule 25-4.118, Florida Administrative Code, and \$10,000 fine for failure to comply with Rule 25-4.043, Florida Administrative Code, should not be assessed.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: This docket should remain open pending resolution of the show cause proceeding. If, however, Value Tel fails to respond to the Commission's order to show cause, the fines should be deemed assessed and this docket closed administratively. (Miller)

STAFF ANALYSIS: If the Commission approves staff's recommendation in Issue 1, Value Tel will have 21 days from the issuance of the Commission's order to respond in writing why it should not be fined in the amounts proposed. This docket, accordingly, should remain open pending resolution of the show cause proceeding.

If, however, Value Tel fails to respond to the Commission's show cause order, the fines should be deemed assessed and this docket closed administratively.