

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against USA Tele Corp. for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

DOCKET NO. 981643-TP  
ORDER NO. PSC-99-1385-AS-TP  
ISSUED: July 19, 1999

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.

ORDER APPROVING OFFER OF SETTLEMENT

BY THE COMMISSION:

On November 16, 1993, this Commission granted USA Tele Corp. (USA) certificate number 3491 to provide intrastate interexchange telecommunications service. During the period February 2, 1998, through November 4, 1998, our Division of Consumer Affairs received 48 complaints against USA, of which 15 were closed as unauthorized carrier change (slamming) infractions in apparent violation of Rule 25-4.118, Florida Administrative Code.

On November 19, 1998, our staff opened this docket to investigate the apparent slamming violations and to determine if a sufficient basis existed to recommend that USA show cause why it should not be fined or have its certificate canceled, pursuant to Section 364.285, Florida Statutes. Our staff met with USA on March 2, 1999, to discuss the slamming complaints, to discuss procedures USA could implement to prevent recurrences, and to resolve the issues of this docket.

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On May 20, 1999, our staff submitted a show cause recommendation for our June 1, 1999 Agenda Conference. Immediately prior to the Agenda, we were notified of USA's intention to submit a settlement offer, and we deferred action.

On June 10, 1999, USA submitted an offer of settlement which is attached hereto as Attachment A and incorporated herein. In its settlement offer, USA agreed to do the following:

- Discontinue marketing of service in Florida for a period of three years.
- Pay \$2,000 a month for a six month period, for a total contribution of \$12,000.
- Submit all marketing materials to our staff for approval, in the future.
- By October 1, 1999, establish a system for handling complaint calls received by this Commission.

We support USA's proposal to discontinue marketing in Florida for a period of three years. We believe that USA's use of questionable telemarketing practices for promoting its product was a major cause of the apparent unauthorized carrier changes. Also, by submitting marketing materials to our staff for review prior to use, USA will reduce the likelihood of misrepresenting its product to consumers. Further, we believe that by arranging to promptly handle complaints received by our Division of Consumer Affairs, USA will be in a better position to effectively respond to consumer complaints.

The company has satisfactorily addressed the issues in this docket. We believe the settlement offer is fair and reasonable, and we hereby accept it. Payment will be submitted to the Commission in six monthly installments of \$2,000 each, with the first payment due on August 1, 1999. Subsequent payments will be submitted by the first day of each month until a total payment of \$12,000 has been submitted. The Commission will forward the contributions to the Office of Comptroller for deposit in the State

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General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

If USA fails to make all payments in accordance with the terms of the settlement offer, the company's certificate shall be canceled administratively, with an effective date five days after the scheduled settlement payment was due, and the unpaid monetary settlement will be forwarded to the Comptroller's office for collection. If the certificate is canceled, any installment payments previously made are non-returnable.

Based on the foregoing, it is

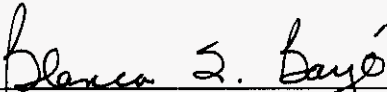
ORDERED by the Florida Public Service Commission that the offer of settlement, by USA Tele Corp., which is appended as Attachment A to this Order and by reference is incorporated herein, is hereby approved. It is further

ORDERED that USA Tele Corp. shall remit \$12,000 in accordance with the installment payment schedule set forth in the body of this Order. The voluntary contribution payments shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. Upon remittance of the total \$12,000, this docket shall be closed administratively. It is further

ORDERED that if USA Tele Corp. fails to make all payments in accordance with the terms in its settlement offer, Certificate No. 3491 shall be canceled administratively, effective 5 days after a scheduled payment is not made, and the remaining unpaid monetary settlement will be forwarded to the Comptroller's office for collection, and this docket will be closed.

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By ORDER of the Florida Public Service Commission this 19th  
day of July, 1999.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

JAM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

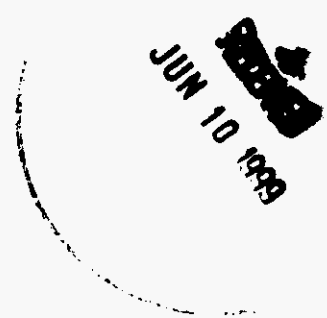
The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

**Penn Governmental Affairs, Inc**

P.O. Box 221628  
Hollywood, Florida 33022-1628  
(954) 610-8418

Mr. Ray Kennedy  
Florida Public Service Commission  
Communications Division  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399



Re: usatelecorp

Dear Mr. Kennedy:

Pursuant to our recent telephone conversation, usatelecorp is highly motivated and is willing to settle this matter in the following manner:

1. Restrict marketing of usatelecorp services for a period of three years.
2. Payment of a \$12,000 fine over a six month period (\$2,000 a month for six months).
3. PSC staff approval of all marketing materials in the future.
4. Establishment of a one-call system whereby a complaint call received by the PSC will be warm transferred to usatelecorp.

I hope this letter brings this matter to a close. You have been more than gracious regarding this matter and your cooperation has been deeply appreciated.

Sincerely,

  
Thomas A. Pennavaria, Jr.

cc: usatelecorp