

FLORIDA PUBLIC SERVICE COMMISSION

VOTE SHEET

JANUARY 18, 2000

RE: DOCKET NO. 991936-TI - Initiation of show cause proceedings against Western Telecom for apparent violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries, and Section 364.604, F.S., Billing Practices.

Issue 1: Should the Commission order Western Telecom to show cause why it should not be fined \$25,000 for apparent failure to comply with Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

Recommendation: Yes. The Commission should order Western Telecom to show cause in writing within 21 days of 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, Certificate of Public Convenience and Necessity Required. The company's response should contain specific allegations of fact or law. If Western Telecom fails to respond to the show cause order, the fine should be deemed assessed. If the fine is not paid within ten business

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

*Susan J Clark*  
*Joe ...*  
*...*

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REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

00721 JAN 19 8

FPSC-RECORDS/REPORTING

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days after the order becomes final, it should be forwarded to the Office of the Comptroller for collection. If the fine is paid, it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

**APPROVED**

Issue 2: Should the Commission order Western Telecom to cease all billing in Florida until authorized to do so by the Commission?

Recommendation: Yes. Pursuant to Sections 364.01, 364.08, and 364.19, Florida Statutes, the Commission should order Western Telecom to immediately cease all back-billing and all future billing and provision of service in Florida until authorized to do so by the Commission, and to obtain certification before the company initiates any billing of charges stemming from such authorized prepaid long distance service in Florida.

**APPROVED**

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Issue 3: Should the Commission order all certificated interexchange companies (IXCs) to discontinue providing interexchange telecommunications service to Western Telecom, pursuant to Rule 25-24.4701(3), Florida Administrative Code, Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited?

Recommendation: Yes. The Commission should order all certificated IXCs to discontinue providing service to Western Telecom. The order should state that any IXC providing interexchange telecommunications service to Western Telecom should contact the Commission at the conclusion of the show cause response period to determine if the show cause proceeding has been concluded.

**APPROVED**

Issue 4: Should the Commission order Western Telecom to refund customers for unauthorized charges pursuant to Rule 25-4.114, Florida Administrative Code, Refunds?

Recommendation: Yes. The Commission should order Western Telecom to refund customers for all unauthorized charges relative to intrastate toll usage, non-recurring long distance activation fees, and the unused portion of the recurring pre-paid long distance charges pursuant to Rule 25-4.114, Florida Administrative Code, Refunds. Since Western Telecom has not filed tariffs with this Commission that identify the services it will provide and the prices it will charge, the Commission should order Western Telecom to dispense refunds, with interest, to all customers who paid the unauthorized charges, in the manner prescribed by Rule 25-4.114, Florida Administrative Code.

**APPROVED**

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Issue 5: Should the Commission order Western Telecom to show cause in writing why it should not be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

Recommendation: Yes. The Commission should order Western Telecom to show cause in writing why it should not be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. If Western Telecom fails to respond to the show cause order, the fine should be deemed assessed. If the fine is not paid within ten business days after the order becomes final, it should be forwarded to the Office of the Comptroller for collection. If the fine is paid, it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

**APPROVED**

Issue 6: Should the Commission order Western Telecom to show cause in writing within 21 days of the Commission's Order why it should not be fined \$2,000 per instance for apparent violation of Section 364.604 (2), Florida Statutes, Billing Practices?

Recommendation: Yes. The Commission should order Western Telecom to show cause in writing within 21 days of the effective date of the order why it should not be fined \$2,000 per instance, or \$78,000, for violation of Section 364.604 (2), Florida Statutes, Billing Practices. If Western Telecom fails to respond to the show cause order, the fine should be deemed assessed. If the fine is not paid within ten business days after the order becomes final, it should be forwarded to the Office of the Comptroller for collection. If the fine is paid, it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

**MODIFIED**

*Fine amount is increased to \$5,000 per violation, for a total of \$195,000*

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Issue 7: Should this docket be closed?

Recommendation: If staff's recommendations in Issues 1, 5 and 6 are approved, Western Telecom 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. If Western Telecom timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If Western Telecom fails to respond to the show cause order, the fines will be deemed assessed. If the fines are not received within ten business days after the expiration of the show cause response period, it should be forwarded to the Office of the Comptroller for collection and this docket may be closed administratively if all other issues are closed.

If staff's recommendations in Issues 2 and 3 are approved, they will become final and effective upon the issuance of a consummating Order unless a person whose substantial interests are affected files a timely protest within 21 days of the issuance date of the Order or responds to the show cause. If a protest is filed, this docket should remain open pending resolution of the protest.

If staff's recommendation in Issue 4 is approved, this docket should remain open pending conclusion of the refund or the resolution of a protest filed within 21 days of the issuance date of the Order by a person whose substantial interests are affected. If the PAA portion of this Order is not protested, it will become effective and final upon the issuance of a consummating order.

**APPROVED**