



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-

JUL 12 PM 1:56
COMMISSION
CLERK

DATE: JULY 12, 2001

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

FROM: DIVISION OF LEGAL SERVICES (W. KNIGHT) WOK *used for BK*
DIVISION OF COMPETITIVE SERVICES (M. WATTS) *WTA*

RE: DOCKET NO. 000482-TC - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST MARIA E. DELGADO D/B/A GLOBAL COMMUNICATION FOR APPARENT VIOLATION OF RULE 25-4.043, F.A.C., RESPONSE TO COMMISSION STAFF INQUIRIES.

AGENDA: 07/24/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE - FINAL ACTION

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000482RR.RCM

CASE BACKGROUND

- November 4, 1994 - Maria E. Delgado d/b/a Global Communication (Global) obtained Florida Public Service Commission Pay Telephone Service (PATS) Certificate No. 3874.
- January 27, 2000 - April 17, 2000 - Staff attempted to contact Global via telephone, regular mail and certified mail to inform it of pay telephone rule violations found in Tampa, Florida, and New Port Richey, Florida. Staff received the signed return receipt from the certified letter it sent, but no response was received from the company.
- April 24, 2000 - Staff opened this docket to investigate whether Global should be ordered 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, Response to Commission Staff Inquiries.

DOCUMENT NUMBER-DATE

08525 JUL 12 01

FPSC-RECORDS/REPORTING

DATE: July 12, 2001

- June 30, 2000 - The Commission issued Order No. PSC-00-1180-SC-TC ordering Global to show cause why it should not be fined \$10,000 or have its certificate canceled.
- January 26, 2001 - Global submitted an offer to settle this case.
- January 30, 2001 - Global reported \$76,037.37 in intrastate operating revenue for 2000.
- April 3, 2001 - Staff presented its recommendation to the Commission at the Agenda Conference. The Commission voted to reject Global's January 26, 2001, settlement offer.
- April 24, 2001 - The Commission issued Order No. PSC-01-1016-PCO-TC ordering Global to respond to the original show cause order (PSC-00-1180-SC-TC, dated June 30, 2000) to show cause why it should not be fined \$10,000 or have its certificate canceled.
- April 30, 2001 - Global submitted a response (Attachment A, pages 9-12) to Order No. PSC-01-1016-PCO-TC and Show Cause Order No. PSC-00-1180-SC-TC.
- May 29, 2001 - Global submitted a supplemental response (Attachment B, page 13) to Order No. PSC-01-1016-PCO-TC and Show Cause Order No. PSC-00-1180-SC-TC.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.183, 364.285 and 364.3375, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Maria E. Delgado d/b/a Global Communication to resolve the apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: No. The Commission should not accept the company's settlement proposal. Records indicate that the company did not respond to the Commission for more than two months, instead of within 15 days as required by Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, and staff believes that the company's proposal of \$250 is insufficient.
(M. Watts)

STAFF ANALYSIS: 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 first contacted Global concerning service deficiencies on January 27, 2000, with a response due on February 11, 2000. According to records submitted by Global in its defense and call records subpoenaed by staff from MCI Worldcom (MCI), Global did not try to contact staff in response until April 20, 2000, over two months later.

On October 17, 2000, the Commission declined to vote on this docket, deferring it to give Global additional time to obtain phone records to support its claim that it faxed its response to staff's letters on March 7. Global was unable to obtain the call records, so on December 18, 2000, staff issued a subpoena to MCI to request the March 2000 call records for all numbers from the location from which Global claims it faxed responses to staff regarding the pay telephone rule violation notifications. On January 17, 2001, MCI submitted its response to the subpoena. The call records did not contain any calls from that location to the Commission during March 2000.

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At the April 3, 2001, Agenda Conference, the Commission rejected Global's previous settlement offer of \$100 and ordered Global to respond to the original Order to Show Cause (PSC-00-1180-SC-TC, dated June 30, 2000). In Global's April 30, 2001, response (Attachment A, pages 9-12), Global maintained that it should not be fined and reiterated its previous offer of \$100.

When staff informed Global that it would not support Global's April 30, 2001, offer because the Commission had previously rejected its identical offer, Global submitted a supplemental response (Attachment B, page 13) in which it offered a settlement of \$250. Staff believes the terms of the settlement offer are not acceptable. Staff did advise Ms. Delgado that, in a similar case, where mitigating factors were presented by the company, the Commission has accepted a \$1,000 settlement offer. Staff also advised Ms. Delgado that it would recommend that the Commission accept a \$1,000 settlement in this case. Ms. Delgado declined to offer a \$1,000 settlement. Staff believes that a contribution of not less than \$1,000 is warranted to settle this docket. Further, staff believes the Commission should maintain a consistent position for cases involving similar circumstances.

Staff's recommendation of a \$10,000 fine is consistent with previous decisions in Docket Nos. 992030-TI, Initiation of show cause proceedings against U.S. Operators, Inc. for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries, and 981375-TC, Cancellation by Florida Public Service Commission of Pay Telephone Certificate No. 5041 issued to Pay-Tel Services Inc. for violation of Rules 25-24.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies, and 25-4.043, F.A.C., Response to Commission Staff Inquiries. In these dockets, the Commission accepted contributions of \$2,500 as settlement for the apparent violation of Rule 25-4.043, Florida Administrative Code. Global's position is that it has done nothing wrong and a fine of \$10,000 is excessive. It has offered \$250, which it deems a reasonable amount given the circumstances. In Docket No. 000215-TX, Initiation of show cause proceedings against Smart City Networks for apparent violation of Section 364.183(1), F.S., Access to Company Records, staff sent two certified letters to the company requesting access to its records, but only received a return receipt for the first letter sent. Staff had initially recommended a fine of \$10,000, and the company offered a voluntary contribution of \$1,000 to settle the case. The company argued that the fact that staff only had one of the return receipts and therefore no

proof that the company had received the second certified letter was a mitigating factor. The Commission agreed and accepted the company's offer of \$1,000. In other dockets with the same apparent violation, the Commission accepted higher settlement offers from other companies that did not present evidence of mitigating factors.

Documentation submitted with Global's initial settlement offer (August 11, 2000) contain phone records that indicate Global attempted to contact staff by telephone on April 20, four days before the docket was opened. Staff believes that Global's proof that it did try to contact staff before this docket was opened is a mitigating factor in the company's favor, but that an offer of \$250 is unacceptable.

Therefore, staff recommends that the Commission reject the company's settlement proposal. Records indicate that the company did not respond to the Commission for more than two months, instead of within 15 days as required by Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, and staff believes that the company's proposal of \$250 is insufficient.

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ISSUE 2: Should the Commission deny Maria E. Delgado d/b/a Global Communication a hearing in this docket based on its April 30, 2001, and May 29, 2001, responses to Order No. PSC-01-1016-PCO-TC, dated April 24, 2001, and cancel Certificate No. 3874?

RECOMMENDATION: Yes. The Commission should deny the company a hearing in this docket based on its April 30, 2001, and May 29, 2001, responses to Order No. PSC-01-1016-PCO-TC, dated April 24, 2001, and should cancel Certificate No. 3874. **(W. Knight/M. Watts)**

STAFF ANALYSIS: Order No. PSC-01-1016-PCO-TC, dated April 24, 2001, ordered Global to respond to the original show cause order (PSC-00-1180-SC-TC, dated June 30, 2000) within 21 days of the issuance of the Order denying the settlement. It further ordered that if Global failed to respond to Order No. PSC-00-1180-SC-TC and the fine was not received within ten business days after the expiration of the show cause response period, then Certificate No. 3874 would be canceled and this docket would be closed administratively.

The response (Attachment A, page 9) received on April 30, 2001, though timely, did not present allegations of fact and law and did not request a hearing. It simply asked that the Commission review Global's previous offer of \$100. Staff attempted to contact Global on May 10, 2001, to seek clarification of its April 30, 2001, response to Order No. PSC-01-1016-PCO-TC. However, staff found that Ms. Delgado was out of the country and no other company representatives would be available until after the 21-day show cause response period had expired on May 15, 2001.

Global contacted staff by telephone on May 21, 2001. Staff informed Global that it would not support Global's April 30, 2001, offer since the Commission had already rejected that offer in Order No. PSC-00-1180-SC-TC, dated June 30, 2000. Since it was not clear whether the company intended to request a hearing, staff then requested that Global provide clarification of its April 30, 2001, letter by May 29, 2001, the end of the 10 business day fine payment period following the 21-day show cause response period. Staff explained at length what the company's options were, the consequences of each, and what procedures it should follow in each case based on its decision.

Thereafter, Global submitted a supplemental response (Attachment B, page 13) to Order No. PSC-01-1016-PCO-TC. This

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response did not indicate that it was a clarification of the April 30, 2001, response, but offered a new settlement of \$250 and, if that offer was not accepted by the Commission, requested a hearing. The supplemental response was untimely as to its request for a hearing in that it was neither offered as a clarification of the timely response nor filed within 21 days of the April 24, 2001, Order denying the settlement. Neither response contains specific allegations of fact and law, as required by the original show cause order.

Staff has, prior to this recommendation, presented three recommendations to the Commission, and the Commission has issued two orders giving the company adequate instruction and opportunity to respond. The docket was deferred from one Agenda Conference to allow the company additional time to present evidence to support its claim that it sent its response from the Kash-N-Karry Headquarters in Tampa, Florida, on March 7, 2000. When the company was unable to access the Kash-N-Karry call records needed to prove that it had responded as it claimed, staff subpoenaed the records from Kash-N-Karry's long distance provider on Global's behalf. In an abundance of caution, the records requested in the subpoena were broader in scope than was necessary, and staff scrutinized the records to see if Global may have mis-dialed by a digit or perhaps used Tallahassee's previous area code. Staff's analysis revealed that no calls were placed to the Commission, to a number off by one digit from a Commission number, or to a Commission number with the old "904" area code during the entire month of March 2000.

Staff has repeatedly advised Global of the minimum amount that it could recommend that the Commission accept that is consistent with offers considered acceptable by the Commission for similar circumstances. Staff has even advised Global that it could work out a payment schedule if necessary. However, the company has rebuffed all of staff's attempts to work with it to resolve this matter.

Thus, Global has been given ample opportunity to prove that it responded to staff in a timely manner, which it did not do, provide an acceptable settlement offer, which it refuses to do, or request a hearing within the proper time periods, which it did not do. Therefore, the Commission should deny the company a hearing in this docket based on its April 30, 2001, and May 29, 2001, responses to Order No. PSC-01-1016-PCO-TC, issued April 24, 2001, and should cancel Certificate No. 3874.

DOCKET NO. 000482-TC
DATE: July 12, 2001

ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. If staff's recommendations are approved, this docket should be closed and PATS Certificate No. 3874 should be canceled. **(W. Knight)**

STAFF ANALYSIS: If staff's recommendations are approved, this docket should be closed and PATS Certificate No. 3874 should be canceled.

Global Communication

4020 B Cortez Drive
Tampa, Fla. 33614
Office: (813) 935-1624
Fax: (813) 932-5518

01
ORIGINAL

Date: April 27, 2001

To: Florida Public Service Commission – Full Commission Prehrg Officer ADM
LEG: Knight; CMU: M. Watts

From: Maria E. Delgado d/b/a Global Communication

Subject: Docket No. 000482-TC; Order No. PSC-01-1016-PCO-TC

I, Maria E. Delgado d/b/a Global Communication, am continuing to show due cause as to why I should not be fined \$10,000. Your rejection letter dated April 24 continues to interject that I completely ignored attempts made by the Commission to contact me. This in turn reflects un-interest on my part. However, as conveyed and proven with my personal phone records attached and previously forwarded, is an incorrect and slanderous statement. As you can see by these records, I did call April 20th & twice April 21st. If the Commission returned my inquiries, this docket would not have been opened April 24th. Therefore I do not understand how you can solely blame Global Communication.

I do take notifications seriously and have never had any problems since opening this business in 1994 with the exception of this incident. I hardly feel that communication errors are grounds to fine me \$10,000. Especially due to the length of time I have been working with the Commission and no other incidents have been noted.

Again, please review my previous offer and review the attached statement from my employer as to my integrity and proof of conscious effort to comply with your regulations. I look forward to your response.

Sincerely,

Maria E. Delgado
D/B/A Global Communication

AG	_____
AD	_____
AS	_____
AT	_____
BA	_____
BE	_____
BO	_____
BR	_____
BS	_____
BT	_____
BU	_____
BV	_____
BW	_____
BX	_____
BY	_____
BZ	_____
CA	_____
CB	_____
CC	_____
CD	_____
CE	_____
CF	_____
CG	_____
CH	_____

DOCUMENT NUMBER DATE
05333 APR 30 2001
PSC-RECORDS REPORTING

Attachment B



TELEPHONE NUMBER 813 932-5942 345
 ACCOUNT NUMBER 151221060614189800
 STATEMENT ENDING May 7, 2000

PAGE 8 OF 12

AT&T billing
 questions
 1 800 222-0300

COMMUNICATIONS SERVICES (continued)



Billing for AT&T

AT&T One Rate[®] Plus Plan (continued)

Night and weekend calls (continued)

Date	Time	Place called		Number called	Min.	Amount
Apr 9	10:05 pm	Miami	FL	305 863-9166	53	\$ 5.30
Apr 14	9:17 pm	Miami	FL	305 207-2469	28	2.80
Apr 14	10:39 pm	Miami	FL	305 863-9166	16	1.60
Apr 20	8:47 pm	Tallahassee	FL	850 413-6504	1	.10
Apr 22	3:29 pm	Miami	FL	305 223-2898	14	1.40
Apr 22	4:42 pm	Miami	FL	305 279-2511	18	1.80
Apr 22	9:34 pm	Miami	FL	305 863-9166	6	.60
Apr 23	6:05 pm	Miami	FL	305 863-9166	1	.10
Apr 28	11:32 am	Tallahassee	FL	850 413-6952	15	1.50
Subtotal						\$ 17.30

left message
 Barbara

The total for night and weekend calls is \$ 17.30

Day discounted calls

Date	Time	Place called		Number called	Min.	Amount
Apr 11	7:33 pm	Atlanta	GA	404 872-8018	2	\$.20
Subtotal						\$.20

The total for day calls is \$.20

The call amounts are based on AT&T long distance rates and are shown for comparison only. These amounts are not included in the total amount due.

AT&T One Rate[®] Plus Plan Summary

	Amount
AT&T One Rate [®] Plus Plan	\$ 4.95
for APR 30 thru MAY 29	17.50
Direct Dialed Calls	.00
Calling Card Calls	.00
Total AT&T One Rate[®] Plus Plan	\$ 22.45

National Access Contribution

	Amount
Carrier Line Charge	\$ 1.51
Universal Connectivity Charge	5.47
Total National Access Contribution Charges	\$ 6.98

DATE: July 12, 2001

Attachment C



TELEPHONE NUMBER: 813-935-1624
 ACCOUNT NUMBER: 151221060435675700
 STATEMENT ENDING: May 13, 2000

GE8 OF 10

COMMUNICATIONS SERVICES (continued)

GTE Long Distance

Division of GTE Communications Corporation

GTE LONG DISTANCE REGULATED SERVICE

GTE Easy Savings Plan Calls

Calls billed to
 813 935-1624

Direct Dialed Calls

Day	Date	Time	Place called	Number called	Period	Min.	
1 Thu	Apr 13	1:20 pm	Vienna VA	703 385-5300	Peak	1	.27
2 Fri	Apr 21	3:54 pm	Tallahassee FL	850 413-6504	Peak	1	.25
3 Fri	Apr 21	4:05 pm	Tallahassee FL	850 413-6504	Peak	2	.50
4 Tue	Apr 25	5:48 pm	Orlando FL	407 325-6249	Peak	24	5.95
5 Fri	Apr 28	7:17 pm	Miami FL	305 207-2469	Peak	2	.50
6 Mon	May 1	8:56 pm	Cuba	53533253	Std	1	1.94
7 Tue	May 2	9:40 pm	Orlando FL	407 325-6249	OffPk	1	.14
8 Tue	May 2	11:51 pm	Orlando FL	407 325-6249	OffPk	2	.28
9 Thu	May 4	9:26 pm	Orlando FL	407 325-6249	OffPk	5	.70
10 Fri	May 5	12:30 pm	Orlando FL	407 851-9368	Peak	1	.25
11 Fri	May 5	12:31 pm	Orlando FL	407 851-9427	Peak	1	.25
12 Fri	May 5	12:32 pm	NwPtRichey FL	727 843-0298	Peak	1	.20
13 Fri	May 5	12:33 pm	Dade City FL	352 567-6943	Peak	1	.25
14 Fri	May 5	12:41 pm	Orlando FL	407 851-9368	Peak	1	.25
15 Tue	May 9	11:24 pm	Orlando FL	407 325-6249	OffPk	1	.14
16 Fri	May 12	12:44 am	NwPtRichey FL	727 847-3794	OffPk	1	.12
17 Fri	May 12	12:46 am	Orlando FL	407 851-9368	OffPk	1	.14
18 Fri	May 12	12:46 am	Orlando FL	407 851-9427	OffPk	1	.14
19 Fri	May 12	12:48 am	Dade City FL	352 567-6943	OffPk	1	.14
20 Fri	May 12	12:49 am	NwPtRichey FL	727 843-0298	OffPk	1	.12
21 Fri	May 12	12:50 am	Dade City FL	352 567-7882	OffPk	1	.14
Subtotal							12.67

Barbara - v m
 girl, 1 m

Call Rate Periods:

Peak - Hours are 8:00am to 7:59pm, weekdays

OffPk - Hours are 8:00pm to 7:59am, weekdays and all day Saturday & Sunday

Summary of GTE Easy Savings Plan

22 GTE Long Distance plan calls	12.67
23 *Plan discount 10% of \$12.67	CR 1.27
Total	\$ 11.40

* Your Easy Savings Plan Discount is calculated on your combined regional and long distance calls.



Kash n' Karry

Fresh, Fast n' Friendly

January 25, 2001

Florida Public Service Commission – Full Commission Prehrg Officer ADM
LEG: Knight; CMU: M. Watts

RE: Maria E. Delgado d/b/a Global Communication, Subject: Docket No. 000482-TC

To Whom It May Concern:

Maria Delgado, d/b/a Global Communication, requested authorization to send a personal fax in March '2000, which was granted. I am told you never received this fax, however I do not feel she would have requested permission to send and not follow through.

In working with Maria over the past year and half, I have found Maria to be a person with very high principles. She is honest and very responsible in her job duties. Therefore, I feel judgment should be made in here favor.

Sincerely,

FRESH, FAST n' FRIENDLY

Michael D. Byars
Chief Operating Officer

MDB/tmh

CERTIFICATION

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me this 25th day of January 2001 by Michael D. Byars who is personally known to me or has produced n/a as identification and who (did) (did not) take an oath

Commission # CC 808067

Expires: February 10, 2003

Notary Tina M Hicks

Signature of Notary

Global Communication

4020 B Cortez Drive
Tampa, Fla. 33614
Office: (813) 935-1624
Fax: (813) 932-5518

ORIGINAL

RECORDS AND
REPORTING

RECEIVED PSC
01 MAY 29 PM 1:43

Date: May 24, 2001

To: Florida Public Service Commission – Full Commission Prehrg Officer ADM
LEG: Knight; CMU: M. Watts

Attn: Records and Recording

From: Maria E. Delgado d/b/a Global Communication

Subject: Docket No. 000482-TC; Order No. PSC-01-1016-PCO-TC

I, Maria E. Delgado d/b/a Global Communication, have been informed that my original offer of \$100 to settle this case has been denied. I strongly feel the fine of \$10,000 is not justified due to a miscommunication between the Commission and myself. Therefore I am asking the Commission to review this case and accept my offer of \$250.

If this offer is rejected, I would like to request a hearing on my behalf.

Respectfully,

Maria E. Delgado
D/B/A Global Communication

APP
CAF
CMP
COM
CTR
EOR
LTS
SAC
SVC

Hong

01 MAY 29 PM 1:10