

State of Florida



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-

COMMISSION
CLERK

NOV - 6 PM 3:22

RECEIVED FPSC

DATE: NOVEMBER 7, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (BUYS) *DB*
OFFICE OF THE GENERAL COUNSEL (L. FORDHAM) *L.F.* *1/14* *RD*

RE: DOCKET NO. 020666-TI - COMPLIANCE INVESTIGATION OF SKY
TELECOM, INC. FOR APPARENT VIOLATION OF RULE 25-24.910,
F.A.C., CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
REQUIRED.

AGENDA: 11/19/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: THIS RECOMMENDATION IS A REVISION TO AND
REPLACEMENT OF STAFF'S AUGUST 8, 2002,
RECOMMENDATION.

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020666REV.RCM

CASE BACKGROUND

- December 1, 2001 through March 15, 2002 - Staff investigated several prepaid calling cards sold by Sky Telecom, Inc. (Sky Telecom). As a result of its investigation, staff determined that Sky Telecom is apparently selling prepaid calling services (PPCS) to the Florida public without first obtaining a certificate of public convenience and necessity (certificate) from the Commission. Sky Telecom apparently contracted with underlying carriers to purchase PPCS in the form of PIN (personal identification number) accounts and subsequently encoded those PIN account numbers along with a toll-free access number on its own private label calling cards, and then sold those cards to other distributors and

DOCUMENT NUMBER 101

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FPSC-COMMISSION CLERK

retailers. In addition, it appeared that Sky Telecom was selling PPCS to Florida consumers in the form of "virtual" PIN accounts through its website, www.thephonecards.com. Virtual PIN accounts are the PIN numbers that would normally be encoded on the back of a prepaid phone card, but in this case, just the PIN numbers were sold.

- March 21, 2002 - Staff sent a certified letter via U.S. Postal Service to Sky Telecom informing the company that staff believes the PPCS provided by Sky Telecom requires a certificate (Attachment A).
- April 4, 2002 - Sky Telecom submitted its reply to staff's letter via facsimile (Attachment B). The company indicated that it has discontinued doing business with the companies providing the underlying services for the prepaid calling cards included in staff's investigation, but it did not address the apparent requirement for a certificate.
- April 26, 2002 - Staff sent a certified letter via U.S. Postal Service to Sky Telecom informing the company that its reply did not address all of the issues in staff's inquiry and reiterated that staff believes that the company is reselling PPCS in Florida and should file an application to obtain a certificate (Attachment C).
- April 29, 2002 - Staff received a call from Mr. Tino Patel, CEO of Sky Telecom. Mr. Patel stated that his company would apply for a certificate and requested that staff send him the application form via facsimile. Mr. Patel also stated that Mr. Brian would be handling the application process.
- May 1, 2002 - Staff sent Sky Telecom a facsimile of the application form for an IXC certificate. Subsequently, Mr. Brian called staff and requested that staff send the application to him via U.S. Mail.
- May 2, 2002 - Staff sent Sky Telecom an IXC certificate application package via U.S. Postal Service certified mail. Subsequently, staff received the U.S. Postal Service "green card" receipt which indicate that D. Patel signed for and received the IXC application package on May 6, 2002.

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- June 19, 2002 - Staff sent an email to Mr. Tino Patel at Sky Telecom informing him that the company's application has not yet been received by the Commission.
- July 9, 2002 - Staff opened this docket to address Sky Telecom's apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, after the company failed to submit its application for a certificate as agreed.
- August 8, 2002 - Staff filed its recommendation for the Commission to impose a \$25,000 penalty on Sky Telecom for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.
- August 12, 2002 - Staff received an email from Mr. Tino Patel stating that Sky Telecom is not a carrier, just a distributor, and he would like an opportunity to convince staff of this fact (Attachment D).
- August 13, 2002 - Sky Telecom requested that the item for this docket be deferred from the August 20, 2002, Agenda Conference. The company's request was approved on August 14, 2002.
- September 6, 2002 - The Commission received a letter from Sky Telecom, dated September 1, 2002, explaining that the company is solely a distributor of prepaid calling cards and is not providing PPCS in Florida (Attachment E).

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.285 and 364.337, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a monetary penalty on Sky Telecom, Inc. for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required?

RECOMMENDATION: No. The Commission should not impose a monetary penalty on Sky Telecom, Inc. for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. **(Buys, L. Fordham)**

STAFF ANALYSIS: As discussed in the case background, staff determined that Sky Telecom was apparently reselling PPCS in the form of calling cards and should have obtained a certificate. Sky Telecom agreed to obtain a certificate, but later reversed its position and now contends that it is not a PPCS provider and does not need a certificate. In Sky Telecom's letter, dated September 1, 2002, the company explained the following:

- Sky Telecom purchases phone cards from other companies at a discounted price and resells them to retailers and other distributors.
- A failure to communicate between company personnel and incorrect advice from the company's administration resulted in Sky Telecom's initial agreement to obtain a certificate.
- Sky Telecom does not use its own name in any reference associated with the service provider on the phone cards it sells. *(The company previously listed the service provider as, "services under contract to Sky Telecom.")*
- The name, Sky Telecom, Inc., was dissolved in late 1999 to resolve a conflict with a similar name of another company. *(The company is now known as TPC or The Phonocard Warehouse, Inc.)*
- The website, www.buyaphonecard.com, is an internet link on Sky Telecom's website to a company based in Houston, Texas. *(The company does not provide its own virtual PIN accounts; only a link to another company.)*

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- The carriers Sky Telecom uses approve all the phone cards and the rates on the cards, and the carriers control the switches and routes. (*Inferring that Sky Telecom does not own or lease any telecommunications facilities.*)

In addition, Sky Telecom provided staff with 79 prepaid calling cards it currently sells and distributes. Staff reviewed those cards and confirmed that they all list legitimate service providers. Further, staff has not found any calling cards currently sold by Sky Telecom in which the service providers listed on the card repudiate responsibility for the service.

Staff believes that Sky Telecom may have been reselling PPCS prior to staff's investigation, but has since ceased reselling those services in a manner which requires a certificate. At this time, it appears that Sky Telecom is not providing PPCS in Florida and should not be required to obtain a certificate, nor should the Commission impose a penalty for failing to obtain a certificate. In short, Sky Telecom has chosen to resolve this issue by discontinuing the business practices that require certification.

Staff further believes that Mr. Patel is now fully cognizant of the Commission's rules regarding PPCS, and should he decide to alter his business practices such that his company becomes a telecommunications service provider, Mr. Patel should file an application for a certificate.

Accordingly, staff recommends that the Commission should not impose a monetary penalty on Sky Telecom, Inc. for apparent violation of Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: The Order issued from this recommendation will become final upon issuance of a Consummating Order. This docket should be closed administratively upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. **(L. Fordham)**

STAFF ANALYSIS: The Order issued from this recommendation will become final upon issuance of a Consummating Order. This docket should be closed administratively upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order.

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



DIVISION OF COMPETITIVE MARKETS &
ENFORCEMENT
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

March 21, 2002

CERTIFIED

Mr. Tino Patel
Sky Telecom, Inc.
10376 E. Colonial Drive
Orlando, FL 32817

Re: Certification Requirement

Dear Mr. Patel:

During the course of our investigation into the *ONE CENT per minute* phone card (Enclosure 1) we were informed by XO Communications (XO) that your company, Sky Telecom, should be certificated with the Commission based on contractual obligations with XO. I am also investigating the *INDIA SKY* phone card (Enclosure 2). AT&T d/b/a SmarTalk informed me that Sky Telecom is the entity providing the *INDIA SKY* prepaid phone card to Florida consumers. I have received copies of letters addressed to you from XO and SmarTalk and enclosed both letters for your review (Enclosures 3 & 4). Both companies have informed us they provide your company with the underlying prepaid calling services (PPCS) and do not print, issue, or distribute the actual phone cards.

Moreover, upon logging on to your internet site, www.thephonecards.com, it appears that Sky Telecom is also selling prepaid calling services to Florida consumers in the form of "virtual" PIN accounts - without an actual phone card. If true, it appears that Sky Telecom is purchasing underlying prepaid calling services from XO and SmarTalk and reselling it to the public. This practice constitutes the act of providing (reselling) prepaid services and is clearly included in the definition of a "company" pursuant to Rule 25-24.905(1), Florida Administrative Code, Terms and Definitions, which states:

- (1) "Company" means any entity providing prepaid calling services to the public using its own or resold telecommunications network.

Mr. Patel, it appears to me that your company is providing prepaid calling services in Florida and requires a Certificate of Public Convenience and Necessity (Certificate). You can obtain an application form and all the pertinent information, including a copy of the Commission's rules, from our website, www.psc.state.fl.us.

Mr. Tino Patel
Page 2
March 21, 2002

As a PPCS provider, Sky Telecom is responsible for ensuring that its prepaid calling services sold to the public comply with all of the Commission's rules governing prepaid calling services. One of the purposes of this letter is to inform your company of several apparent violations of Rule Nos. 25-24.910, 25-24.915, and 25-24.920, Florida Administrative Code, and provide you with an opportunity to correct the problems. The enclosed evaluation form (Enclosure 5) indicates the apparent rule violations associated with the *ONE CENT per minute* phone card and Sky Telecom's services. The checked boxes denote the problems found and the apparent rule infractions.

I would also like to point out that the statement printed on the back of the *ONE CENT per minute* phone card, "20% applicable taxes and operational fees deducted from total minutes," seems vague and does not clearly indicate the actual charges the customer will incur. Preferably, any taxes and operational fees should be included in the per minute rate or disclosed as an additional surcharge of a specific amount.

Furthermore, according to representatives at SmarTalk, your company is also responsible for the printing and resale of the *India Sky* prepaid calling cards in Florida. In the letter from Ms. Virginia Tate (Enclosure 4), she requested that you send her written assurances by March 15, 2002, that your company will immediately adhere to the Florida prepaid card rules. I am very interested in the actions your company is taking to ensure that the *India Sky* prepaid phone card is in compliance with the Commission's rules.

Mr. Patel, please provide me with a copy of the written assurances I presume were sent to Ms. Tate as requested in her letter dated February 6, 2002, by March 29, 2002. You can send me a facsimile. Also, please provide me with a written reply listing the actions your company is taking to correct the apparent rule violations cited in the evaluation form (Enclosure 5), by April 12, 2002. Most importantly, please submit your company's application for a Certificate to the Commission's Division of Commission Clerk and Administrative Services by April 12, 2002. Should you have any questions, please give me a call.

Sincerely,



Dale R. Buys
Regulatory Analyst
Bureau of Service Quality

Voice: 850-413-6536
Facsimile: 850-413-6537
Email: dbuys@psc.state.fl.us


DRB
Enclosures (5)

cc: Jackie Gilchrist
Florida Department of Revenue

\$5

ONE CENT

per minute




800-959-3508

Pre-paid Phone Card
Tarjeta Prepagada

ONE CENT

per minute



800-959-3508

Pre-paid Phone Card
Tarjeta Prepagada

\$5

\$5

Enjoy significant savings on calls to anywhere in the world with the Pre-paid Phone Card!	Disfrute grandes ahorros en llamadas a cualquier parte del mundo, con la tarjeta telefónica.
No credit required.	No requiere credito.
Easy to use.	Fácil de usar.
No coins needed.	No se necesitan monedas.
24 Hour Customer Service.	Servicio al cliente 24 horas al día.
Savings of 50% to 70% over pay-phones and collect calls.	Ahorre de 50% a 70% sobre llamadas en teléfono públicos y llamadas por cobrar.



PIN ← **174 772 5034** →

1. Dial: **1-800-959-3508** 1. Marque: **1-800-959-3508**

2. Follow instructions. 2. Sigue las instrucciones.

3. International Calls:
011 + Country Code + City Code + Local Number.
 3. Llamadas Internacionales:
011 + Código del País + Código de la Ciudad + el Número Telefónico

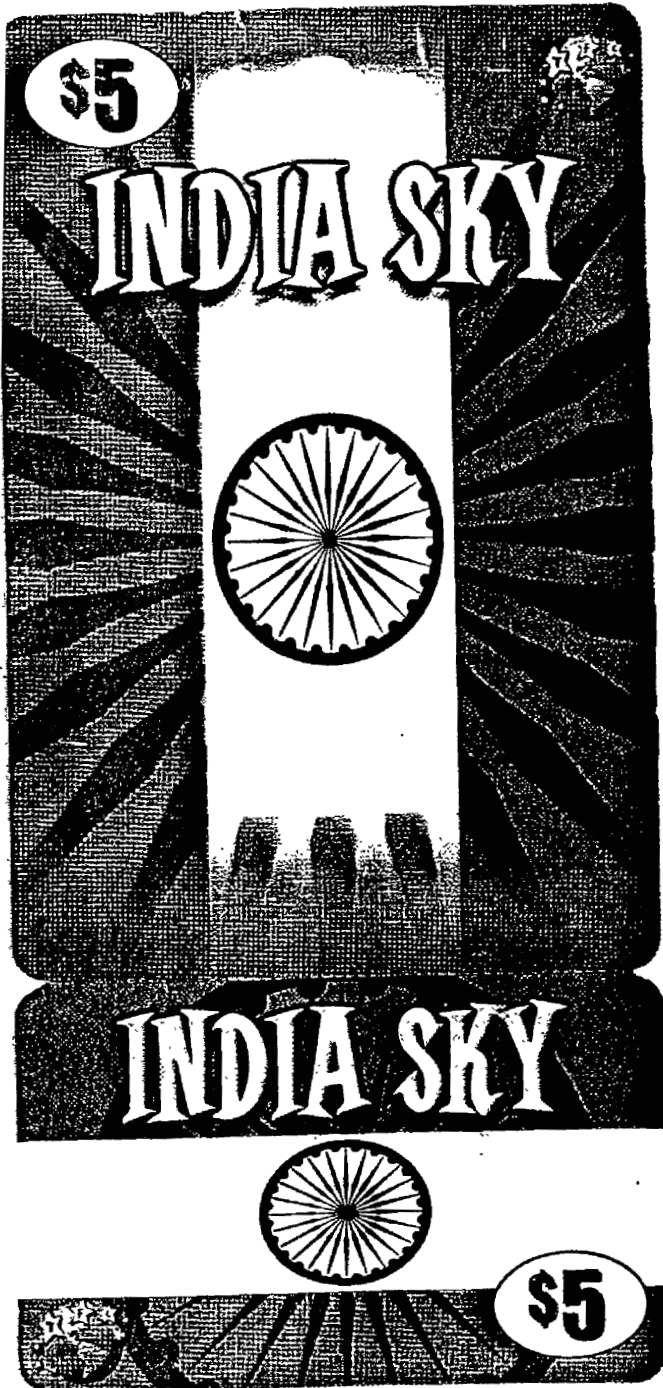
* To make additional calls, press #. Do not hang up. * Per FCC ruling 50¢ deducted on all toll-free pay phone calls.
 * Rates may vary and are subject to change without notice. * Call billed in 3 minute increments.
 * Time expires 90 days after last use. * 20% applicable taxes and operational fees deducted from total minutes.
 • Domestic connect fee: 0 International connect fee up to: 0 Weekly service fee: 1.00

Network provided by **XO COMMUNICATIONS** 0942-104859731

CSUM: 1-800-487-1704

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Attachment A
Enclosure 2



\$5

INDIA SKY Phone Card

Easy to use:

1. Dial the toll free number located on the back of the card from any touchtone phone.
2. Follow the voice prompts.
3. You will be then asked to dial anywhere in the world, 24 hours a day, and save!

Facil de usar:

1. Solo marque el numero gratis indicado en la parte de atras de su tarjeta para llamar desde cualquier telefono de botones.
2. Siga las instrucciones.
3. Cuando se le indique marque el numero al que usted desea llamar en cualquier parte del mundo, 24 horas al dia y ahorre!



TO PLACE A CALL:

DIAL: 1-877-372-1887

At the prompt enter PIN:

PARA HACER UNA LLAMADA:

MARQUE: 1-877-372-1887

Al indicarle, marque su codigo de autorizacion

113 345 2132

Scratch here

In the USA, dial 1 + Area Code + Number
International calls, dial 011 + country code
+ city code + telephone number

Raspar Aqui

Marque 1 +Codigo de Area + El Numero
Marque 011 + codigo del pais + codigo de
la ciudad + el numero de telefono

CUSTOMER SERVICE 1-800-394-4868 SERVICIO AL CLIENTE

FCC mandated surcharge may apply when calling from a payphone. Card expires 6 months from first use. Non-refundable. Calls terminating at wireless receivers in certain countries may be charged at higher rate. Application of surcharges and/or fees has effect of reducing total minutes on card. Provider not responsible for lost or stolen cards. See poster for rate information or call Customer Service. Network by SmartTalk.

0761/135640380226

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Enclosure 3
Attachment A

MAR 06 09:04 AM '02

AG DANA SHAFFER
5005/20821;

#3273 P.003/004
Mar-5-02 2:21PM; Page 2/3

3117 SW Washington
Suite 800
Portland, OR 97206
1756

XO
XO Communications, Inc.

March 1, 2002

Tel: 503 247 0803
Fax: 503 247 8106

Mr. Tino Patel
President
Sky Telecom
10376 E. Colonial Dr, Suite 135
Orlando, FL 32817

VIA FAX TO 407-273-9888 AND VIA CERTIFIED MAIL

Dear Tino,

The purpose of this letter is to advise you we are terminating the Prepaid Calling Card Services Agreement dated as of 11-21-00 between Sky Telecom and NEXTLINK INTERACTIVE Inc., now known as XO Interactive, Inc. (the "Agreement"), effective March 16, 2002.

We have received notice from the State of Florida that Sky Telecom is not appropriately licensed as a telecom provider of prepaid calling cards in the State of Florida. This is a requirement of sections 5.2, 5.3 and 5.4 of the Agreement.

We have evidence of the use of the XO and NEXTLINK names by Sky Telecom on the back of phonecards and in magazine advertisements, in breach of Sections 4.2, 4.3 and 4.4 of the Agreement.

As we informed you on February 12, 2002, we cannot activate any cards for you without evidence of Florida certification and confirmation of that certification by the State of Florida. We requested from you on February 12, 2002, evidence of your compliance with the requirements of the State of Florida. We have not received anything from you in this regard. We will continue to provide services for cards already activated prior to February 12, 2002. We will expect payments to be made for any amounts owed for "first use" cards and any other outstanding obligations.

Very truly yours,

XO INTERACTIVE, INC.


William Hergenhan
Vice President, Prepaid Services

FD-36 (Rev. 5-22-64)

3-1-02	11	\$4,961	10376 E. Colonial Dr, Suite 135 Orlando, FL 32817	Patel/Skytel
SEARCHED	SERIALIZED	INDEXED	FILED	

P 494 493 997

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Attachment A

Enclosure 4

2002 FEB -8 AM 10: 57
DIVISION OF
COMPETITIVE SERVICES



Virginia Tate
Attorney
Law and Government Affairs
Southern Region

Suite 8100
1200 Peachtree Street, NE
Atlanta, GA 30309
404-810-4922
FAX: 404-810-5901

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

February 6, 2002

Mr. Tino Patel
President
Sky Telecom
10376 East Colonial Drive
Suite 135
Orlando, FL 32817

Dear Mr. Patel:

I am a Senior Attorney in the Law and Government Affairs Division of AT&T Communications of the Southern States, LLC. SMARTALK® is a d/b/a of AT&T which provides prepaid services. It has recently come to my attention that your company is using SMARTALK® as the network services provider on certain prepaid cards (see enclosure), and is in violation of several of the prepaid calling rules pursuant to Rules 25-24.910, 25-24.915, and 25-24.920, Florida Administrative Code. These violations are as follows:

25-24.910 Certificate of Public Convenience and Necessity Required

25-24.915 Tariffs and Price Lists

1) This section applies to all companies as defined in 25-24.905(1) ("Company" means any entity providing prepaid calling services to the public using its own or resold telecommunications network), regardless of certificate type or other tariff or price list requirements.

2) Each company shall file a tariff or price list for PPCS.

3) Each company shall include in its tariff or price list the following information:

- a) Maximum amount a person will be charged per minute for PPCS, and
- b) Applicable surcharges.

25-24.920 Standards for Prepaid Calling Services and Consumer Disclosure

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Attachment A

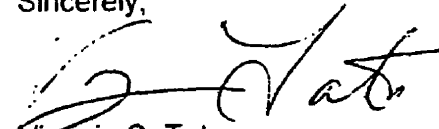
Enclosure 4

2) Each company shall provide the following information legibly printed either on the card, packaging, or display visibly in a prominent area at the point of sale of the PPCS (prepaid calling services) in such a manner that the consumer may make an informed decision prior to purchase:

- a. Maximum charge per minute for PPCS;
 - b. Applicable surcharges; and
 - c. Expiration policy, if applicable.
- 7) The billing increment shall not exceed one minute.

Accordingly, AT&T requests your written assurances by March 15, 2002 that your company will immediately adhere to the Florida prepaid card rules stated above, as well as cease selling all prepaid cards in Florida carrying the SMARTALK® which are in violation of the Florida rules.

Sincerely,



Virginia C. Tate

CC: Rick Moses, Florida Public Service Commission

Enclosure

Enclosure 5

**FLORIDA PUBLIC SERVICE COMMISSION
PREPAID CALLING SERVICES & PHONE CARD
COMPLIANCE EVALUATION FORM**

ANALYST Dale Buys DATE 03/21/02
PREPAID CALLING SERVICE PROVIDER XO Communications (SKY TELECOM, INC.)
PREPAID PHONE CARD LABEL ONE CENT PER MINUTE
DATE PURCHASED 11/16/2001
PURCHASED AT UNIVERSITY AVE, GAINESVILLE, FL

COMPANY HAS NOT OBTAINED A CERTIFICATE IN APPARENT VIOLATION OF RULE 25-24.910, F.A.C., CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED.
A company shall not provide PPCS without first obtaining a certificate of public convenience and necessity as a local exchange company, alternative local exchange company, or interexchange company.

COMPANY DOES NOT LIST PRICES FOR PPCS IN ITS TARIFF IN APPARENT VIOLATION OF RULE 25-24.915, F.A.C., TARIFFS AND PRICES LISTS.

(1) This section applies to all companies as defined in 25-24.905(1), regardless of certificate type or other tariff or price list requirements.

(2) Each company shall file a tariff or price list for PPCS.

COMPANY HAS NOT FILED A TARIFF OR PRICE LIST FOR PPCS.

(3) Each company shall include in its tariff or price list the following information:

(a) Maximum amount a person will be charged per minute for PPCS,
and

(b) Applicable surcharges.

(a) MAXIMUM AMOUNT CHARGED IS NOT LISTED IN TARIFF.

(b) APPLICABLE SURCHARGES NOT LISTED IN TARIFF.

APPARENT VIOLATIONS OF RULE 25-24.920, F.A.C., STANDARDS FOR PREPAID CALLING SERVICES AND CONSUMER DISCLOSURE.

(1) The following information shall be legibly printed on the card:

(a) The Florida certificated name, or "doing business as" name as provided for by Rule 25-24.910, clearly identified as the provider of the PPCS;

(b) Toll-free customer service number;

(c) Toll-free network access number, and;

(d) Authorization code (pin number)

(a) NAME NOT PRINTED ON CARD

(b) TOLL-FREE CUSTOMER SERVICE NUMBER NOT PRINTED ON CARD

(c) TOLL-FREE ACCESS NUMBER NOT PRINTED ON CARD

(d) AUTHORIZATION CODE (PIN NUMBER) NOT PRINTED ON CARD

Enclosure 5

(2) Each company shall provide the following information legibly printed either on the card, packaging, or display visibly in a prominent area at the point of sale of the PPCS in such a manner that the consumer may make an informed decision prior to purchase:

- (a) Maximum charge per minute for PPCS;
- (b) Applicable surcharges;
- (c) Expiration policy, if applicable.

- (a) MAXIMUM CHARGE PER MINUTE NOT DISCLOSED.
- (b) APPLICABLE SURCHARGES NOT DISCLOSED.

STATEMENTS ON CARD OR DISPLAY MATERIAL DISCLOSING THAT ADDITIONAL SURCHARGES MAY APPLY WITHOUT LISTING THE AMOUNT OF THE SURCHARGE:

" 20% applicable taxes and operational fees deducted from total minutes. "

- (c) EXPIRATION POLICY NOT DISCLOSED.

(3) Each company shall provide through its customer service number the following information:

- (a) Certificate number;
- (b) Rates and surcharges;
- (c) Balance of use in account;
- (d) Expiration date or period, if any.

- (a) CERTIFICATE NUMBER NOT PROVIDED
- (b) RATES AND SURCHARGES NOT PROVIDED
- (c) BALANCE OF USE IN ACCOUNT NOT PROVIDED
- (d) EXPIRATION DATE OR PERIOD NOT PROVIDED
- CANNOT CONTACT CUSTOMER SERVICE _____

(4) Each company shall provide a live operator to answer incoming calls 24 hours a day, 7 days a week or shall electronically voice record end user complaints. A combination of live operators or recorders may be used. If a recorder is used, the company shall attempt to contact each complainant no later than the next business day following the date of the recording.

- COMPANY DOES NOT HAVE A LIVE OPERATOR OR VOICE MESSAGE SYSTEM.
- COMPANY DID NOT CONTACT STAFF AT THE END OF THE NEXT BUSINESS DAY. TIME AND DATE MESSAGE WAS LEFT _____

(5) The rates displayed in accord with paragraph (2) above shall be no more than those reflected in the tariff or price list for PPCS.

- RATES DISPLAYED ARE MORE THAN THE RATES LISTED IN TARIFF.
RATES DISPLAYED _____

RATES LISTED IN TARIFF _____

- NO RATES ARE LISTED IN THE TARIFF.

Enclosure 5

(6) A company shall not reduce the value of a card by more than the charges printed on the card, packaging, or visible display at the point of sale. The service may, however, be recharged by the consumer at a rate higher than the rate at initial purchase or last recharge. The higher rate and surcharges shall be no more than the rates and surcharges in the tariff or price list and the consumer shall be informed of the higher charges at the time of recharge.

COMPANY IS REDUCING VALUE OF THE CARD BY MORE THAN THE DISCLOSED CHARGES.

RESULTS OF TIMING AND BILLING RECONCILIATION TEST:

ADVERTISED NUMBER OF MINUTES	N/A
NUMBER OF MINUTES PER RECORDED MESSAGE AT START OF TEST CALLS	451
MINUTES RECEIVED	24
VALUE OF CARD	\$ 5 ⁰⁰
CALCULATED RATE PER MINUTE*	\$.011
VALUE RECEIVED**	\$1.26
NUMBER OF CALLS MADE	6

* Value of the card / # of minutes per recorded message at start of test calls

** (maximum number of calling minutes provided at 1-minute increments x Rate per minute) + (# calls completed x connection charge) + maintenance charge.

PHONE CARD CONTAINS A STATEMENT TO THE EFFECT THAT THE RATES OR PRICES MAY CHANGE WITHOUT NOTICE. (Since a company shall not reduce the value of a card by more than the charges printed on the card, packaging, or visible display at the point of sale, then the rates must not change for a given pin number and card.)

(7) The billing increment shall not exceed one minute.

BILLING EXCEEDS ONE MINUTE _____

(8) Each company shall only charge for conversation time plus applicable surcharges.

COMPANY IS CHARGING FOR TIME NOT USED FOR CONVERSATION.

(9) Conversation time of less than a full minute shall not be rounded up beyond the next full minute.

COMPANY IS ROUNDING UP BEYOND THE NEXT FULL MINUTE.

(10) Cards without a specific expiration period printed on the card, and with a balance of service remaining, shall be considered active for a minimum of one year from the date of first use, or if recharged, from the date of the last recharge.

NO EXPIRATION DATE IS PRINTED ON CARD AND COMPANY HAS DEACTIVATED CARD PRIOR TO THE EXPIRATION OF ONE YEAR.

(11) If PPCS are sold without a card or printed material, tariffed charges and surcharges shall be disclosed at the point of sale.

COMPANY SOLD PPCS WITHOUT A CARD OR PRINTED MATERIAL AND FAILED TO DISCLOSE TARIFFED CHARGES AT THE POINT OF SALE.

DOCKET NO. 020666-TI
DATE: November 7, 2002

Attachment B

FROM : www.thephonecards.com

FAX NO. :

Apr. 04 2002 01:02PM P1

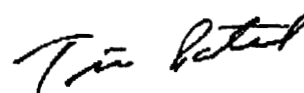
Dear Mr. Dale Buys:

This is to notify that after going through your Certification Requirement, and as per your investigation into ONE CENT per minute phone card (Enclosure), and the INDIA SKY phone card (Enclosure 2) by Smarttalk.

We have taken the following action to correct the apparent rule violations cited in the evaluation form (Enclosure 5).

- 1) We have discontinued our business with XO Communications (XO), and Smarttalk. As the following companies have refused to sell us (SKYTELECOM), the prepaid calling services (PPCS), and the virtual pins. Therefore we cannot print, issue, or distribute the actual cards, and thereby we have recalled all the ONE CENT and INDIA SKY phone cards from the market, and all the phonecards are in our possession. Should you have any questions, please give me a call.

Sincerely,



Tino Patel.
CEO.

Voice: 407 382 7888 (102)
Facsimile: 407 273 9888
Email: Tino@skytelccom.com

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



DIVISION OF COMPETITIVE MARKETS &
ENFORCEMENT
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

April 26, 2002

CERTIFIED

Mr. Tino Patel
Sky Telecom, Inc.
10376 E. Colonial Drive
Orlando, FL 32817

Re: Certification Requirement and inquiry into the *La Vida Loca* prepaid calling card.

Dear Mr. Patel:

Thank you for your reply to my letter dated March 21, 2002 (Enclosure 1). I understand that your company has ceased distributing and selling the *ONE CENT per minute* and *INDIA SKY* prepaid phone cards in Florida. However, this action does not resolve all of the issues addressed in my letter. The main purpose of my letter was to request that your company submit an application for a certificate to the Commission by April 12, 2002. As of today, our records do not show that an application has been submitted.

I still believe that Sky Telecom is reselling prepaid calling services in Florida and requires a certificate from the Commission. Let me clarify my position. It appears that one of Sky Telecom's business practices is to purchase PIN accounts for prepaid calling services from various underlying carriers at a discount, encode those PIN account numbers on various phone cards and sell them to the end users as a new product. If your company were merely a distributor of prepaid phone cards, it would not modify existing product or create new product, nor would it sell "virtual" PIN accounts - without a phone card - on the internet.

In addition, I am investigating the *La Vida Loca Tarjeta* prepaid phone card (Enclosure 2). The back of the card indicates that "R.C.I." is the service provider. However, our records do not list any company with the name of "R.C.I.". I called the customer service number on the back of the phone card and was told by a customer service representative named Darleen to call 1-800-215-4922. Upon calling the new customer service number, I was informed that Telegenius, Inc. is the service provider. However, Telegenius informed me that it is not familiar with the *La Vida Loca Tarjeta* prepaid phone card (Enclosure 3). Moreover, this phone card is listed on your website for sale in Florida (Enclosure 4). Based on these facts, it appears that your company may be producing this product for sale to end users in Florida. If not, please provide me with the name, address, phone number, and person I can contact for the company listed as "R.C.I." on the back of the phone card.

DOCKET NO. 020666-TI
DATE: NOVEMBER 7, 2002

Attachment C

Mr. Tino Patel
Page 2
April 26, 2002

Mr. Patel, please provide me with a written reply to these issues by May 10, 2002. In your reply, please provide me with the requested information about "R.C.I.", and address the matter of applying for a certificate. If you are in the process of applying, please keep me informed of your progress. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Dale R. Buys
Regulatory Analyst
Bureau of Service Quality

Voice: 850-413-6536
Facsimile: 850-413-6537
Email: dbuys@psc.state.fl.us

DRB
Enclosures (4)

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY



DIVISION OF COMPETITIVE MARKETS &
ENFORCEMENT
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

March 21, 2002

CERTIFIED

Mr. Tino Patel
Sky Telecom, Inc.
10376 E. Colonial Drive
Orlando, FL 32817

Re: Certification Requirement

Dear Mr. Patel:

During the course of our investigation into the *ONE CENT per minute* phone card (Enclosure 1) we were informed by XO Communications (XO) that your company, Sky Telecom, should be certificated with the Commission based on contractual obligations with XO. I am also investigating the *INDIA SKY* phone card (Enclosure 2). AT&T d/b/a SmarTalk informed me that Sky Telecom is the entity providing the *INDIA SKY* prepaid phone card to Florida consumers. I have received copies of letters addressed to you from XO and SmarTalk and enclosed both letters for your review (Enclosures 3 & 4). Both companies have informed us they provide your company with the underlying prepaid calling services (PPCS) and do not print, issue, or distribute the actual phone cards.

Moreover, upon logging on to your internet site, www.thephonecards.com, it appears that Sky Telecom is also selling prepaid calling services to Florida consumers in the form of "virtual" PIN accounts - without an actual phone card. If true, it appears that Sky Telecom is purchasing underlying prepaid calling services from XO and SmarTalk and reselling it to the public. This practice constitutes the act of providing (reselling) prepaid services and is clearly included in the definition of a "company" pursuant to Rule 25-24.905(1), Florida Administrative Code, Terms and Definitions, which states:

- (1) "Company" means any entity providing prepaid calling services to the public using its own or resold telecommunications network.

Mr. Patel, it appears to me that your company is providing prepaid calling services in Florida and requires a Certificate of Public Convenience and Necessity (Certificate). You can obtain an application form and all the pertinent information, including a copy of the Commission's rules, from our website, www.psc.state.fl.us.

Mr. Tino Patel
Page 2
March 21, 2002

As aPPCS provider, Sky Telecom is responsible for ensuring that its prepaid calling services sold to the public comply with all of the Commission's rules governing prepaid calling services. One of the purposes of this letter is to inform your company of several apparent violations of Rule Nos. 25-24.910, 25-24.915, and 25-24.920, Florida Administrative Code, and provide you with an opportunity to correct the problems. The enclosed evaluation form (Enclosure 5) indicates the apparent rule violations associated with the *ONE CENT per minute* phone card and Sky Telecom's services. The checked boxes denote the problems found and the apparent rule infractions.

I would also like to point out that the statement printed on the back of the *ONE CENT per minute* phone card, "20% applicable taxes and operational fees deducted from total minutes," seems vague and does not clearly indicate the actual charges the customer will incur. Preferably, any taxes and operational fees should be included in the per minute rate or disclosed as an additional surcharge of a specific amount.

Furthermore, according to representatives at SmarTalk, your company is also responsible for the printing and resale of the *India Sky* prepaid calling cards in Florida. In the letter from Ms. Virginia Tate (Enclosure 4), she requested that you send her written assurances by March 15, 2002, that your company will immediately adhere to the Florida prepaid card rules. I am very interested in the actions your company is taking to ensure that the *India Sky* prepaid phone card is in compliance with the Commission's rules.

Mr. Patel, please provide me with a copy of the written assurances I presume were sent to Ms. Tate as requested in her letter dated February 6, 2002, by March 29, 2002. You can send me a facsimile. Also, please provide me with a written reply listing the actions your company is taking to correct the apparent rule violations cited in the evaluation form (Enclosure 5), by April 12, 2002. Most importantly, please submit your company's application for a Certificate to the Commission's Division of Commission Clerk and Administrative Services by April 12, 2002. Should you have any questions, please give me a call.

Sincerely,



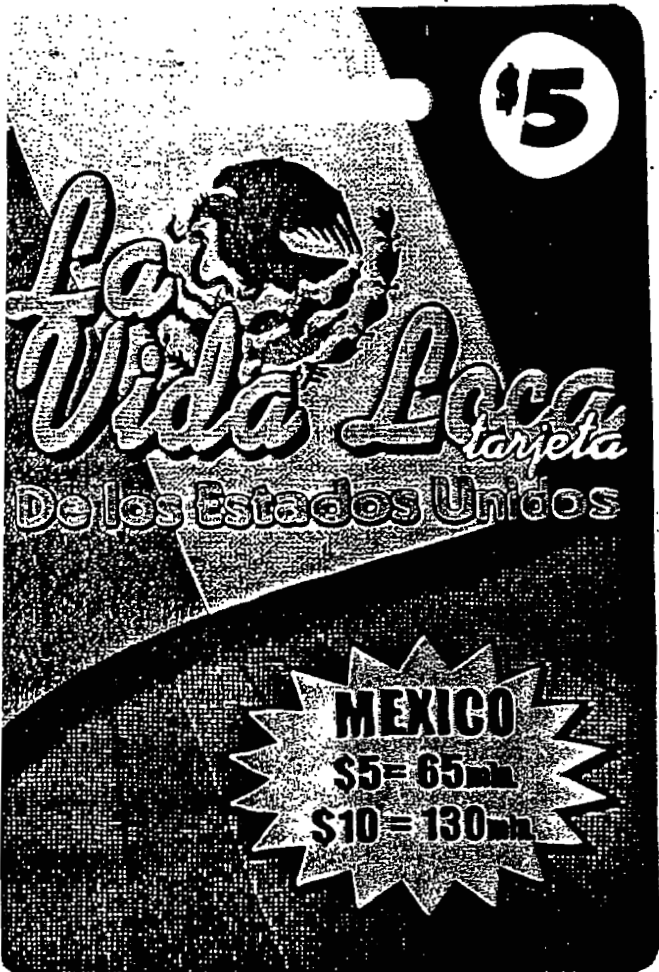
Dale R. Buys
Regulatory Analyst
Bureau of Service Quality

Voice: 850-413-6536
Facsimile: 850-413-6537
Email: dbuys@psc.state.fl.us

DRB
Enclosures (5)

- 21 -

cc: Jackie Gilchrist
Florida Department of Revenue



\$5

Enjoy significant savings on calls to anywhere in the world with the Pre-paid Phone Card!

Disfrute grandes ahorros en llamadas a cualquier parte del mundo, con la tarjeta telefónica.

No credit required.

No requiere credito.

Easy to use.

Fácil de usar.

No coins needed.

No se necesitan monedas.

24 Hour Customer Service.

Servicio al cliente 24 horas al día.

Savings of 50% to 70% over pay-phones and collect calls.

Ahorre de 50% a 70% sobre llamadas en teléfonos públicos y llamadas por cobrar.



1. Enter: **1-800-541-6945**

1. Marque: **1-800-572-1338**

2. Enter your PIN
3. For Domestic calls (including Canada Puerto Rico & the Caribbean), dial: 1 + area code + Number.
4. For international calls, dial: 011 + Country & City Codes + Number. DO NOT DIAL "0" before the city code.
5. For additional calls DON'T hang up, Press ## and follow prompts.

2. Marque su código privado
3. Para llamadas en los E.E.U.U., Canadá, Puerto Rico y el Caribe marque: 1 + código del área + número de teléfono.
4. Para llamadas internacionales, marque: 011 + código del país y la ciudad + el número de teléfono. NO MARQUE "0" antes del código de la ciudad.
5. Para llamadas adicionales NO CUELQUE, al botón ## y siga las indicaciones.

411 165 498
PIN / Código Privado

For Customer Service, call:
Para comunicarse con el servicio al cliente llame al:
1-888-274-4190

Additional surcharges may apply. Surcharge may apply for calls from payphones. Rates for calls to mobile phones may vary. Maintenance surcharge applies. Card Expires 6 months after 1st use.

SERIAL NO.

Network services provided by

R.C.I.

396047-126930519

DOCKET NO. 020666-TI
DATE: November 7, 2002

Attachment C



Edgelake Dr., Suite 209 • Metairie, LA 70002 • Web: www.tolegenius.com
1-888-256-3150 • Fax: 1-888-590-1909 • Email: info@tolegenius.com

Enclosure 3

2002 APR -1 AM 11:21

DIVISION OF
COMPETITIVE SERVICES

March 29, 2002

Dale R. Buys, Regulatory Analyst
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: La Vida Loca prepaid phone card

Dear Mr. Buys:

We have received your letter dated March 6, 2002 referencing the La Vida Loca calling card. However, we are not familiar with RCI, its components or the La Vida Loca card. If any further assistance is required, please contact us at 504-831-5090.






Sincerely,

Ms. January Michel
Executive Assistant
504-831-5090 x223
504-838-6220
Email: january.michel@gpa.net

J

CARD IS ON
SKY TELECOM'S WEBSITE -

Enclosure 4

<p>Hola MEXICO Hola USA</p> 	<p>Mexico \$5=34, \$10=69</p> <p>FLAT RATE. NO CONNECTION FEE. 1 minute rounding.</p> <p><i>Service by MCI/WorldCom</i></p> <p>Available in \$5,\$10 paper</p>	<p>UP TO 30% DISCOUNT</p>
<p>HOLA AMIGOS</p> 	<p>Mexico \$5=52, \$10=104</p> <p>MEXICO \$5=52 & \$10=104, GUATEMALA \$5=22 & \$10=44, HONDURAS= \$5=15 & \$10=30, PANAMA=\$5= 22 & \$10=44, EL SALVADOR \$5=22 & \$10=44</p> <p><i>Service by UCI</i></p> <p>Available in \$5,\$10 paper For additional rate information 1-866-646-8526</p>	<p>UP TO 33% DISCOUNT</p> 
<p>La Vida Loca</p> 	<p>\$5=52, \$10=104</p> <p>FLAT RATE. NO CONNECTION FEE.</p> <p><i>Service by UCI</i></p> <p>Available in \$5,\$10 paper</p> <p>For additional rate information 1-800-274-4190</p>	<p>UP TO 32% DISCOUNT</p> <p>You must buy by the box (minimum \$5 x 500 cards) to get the top discount</p>
<p>ONE CENT</p> 	<p>USA 1 cent w/49 connection.</p> <p>Mexico \$5=55. \$10=110 mins.</p> <p>FLAT RATE. NO CONNECTION FEE.</p> <p><i>1 cent to most of European Countries</i></p> <p><i>Service by UCI</i></p> <p>Available in \$5,\$10 paper</p>	<p>UP TO 38% DISCOUNT</p> <p>You must buy by the box (minimum \$5 x 500 cards) to get the top discount</p>

DOCKET NO. 020666-TI
DATE: NOVEMBER 7, 2002

Attachment D

Dale Buys

From: TINO PATEL [tinopatel@hotmail.com]
Sent: Monday, August 12, 2002 3:58 PM
To: dbuys@psc.state.fl.us
Subject: sky telecom issues....

Subject: Former Sky telecom, Inc. Issue...

Mr. Dale R. Buys:

Since your last letter dated April 26, 2002 regarding the India sky cards (smart talk) , One cent cards (xo communications) and La vida loca cards with tele genius.... we have 100% discontinued the sale of their prepaid cards. WE DO NOT SELL THESE CARDS AT THE PRESENT TIME IN FLORIDA nor do we sell India Sky Card or One cent Card (XO) or La Vida Loca cards (tele genius) in USA. We have discontinued these products.

We are JUST a distributor of prepaid cards. We are not the carrier. We are a small family business that have no switches. We are not a carrier. The companies that are providing the services at the present time are certified in state of FLORIDA.

We sell Ultimate Communications, Natel, Worldcom, IDT etc... products >> these carriers are already talking to you and have certified in state of Florida as per your request.

please get back to me on this matter on how do I convenience you that we are not carrier. We are just a distributor who buys sells the cards of the Carrier. We do not modify or alter calling cards and sell them. The modifications of rates and control is in carries had who owns the switches.

Hopefully this helps.

Thanks

Tino Patel

-----Tino Patel 407-382-7888 x102 407-273-9888 fax -----

Get more from the Web. FREE MSN Explorer download : <http://explorer.msn.com>

The Phonecard Warehouse

www.thephonecards.com

2002 SEP -6 PM 3:35

10376 E Colonial Drive, #135 Orlando, FL 32817 407-382-7888 407-273-9888

COMPETITIVE SERVICES

TPC
10376 E. Colonial Drive # 135
Orlando, FL 32817
Telephone: (407) 382 7888
Fax: 407) 273 9888

Dale R. Buys
Division of Competitive Services & Enforcement
Florida Public Services Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

1st September 2002

Dear Sir,

RE: Docket No. 020666-TI – Certificate issue

In reference to your august 20th 2002 Conference I hereby send you this reply that we are a mere buy and sell wholesale/retail supplier. We do not produce any minutes or process calls, neither do we have our own switches or carrier routes what so ever.

The reason why in the first place we requested for a license was due to an employee who we hired for administration work and had wrongly advised us to apply for a license that that we do not require in the operation that we carry out. It was just internal miscommunications.

We are what you would call a sales and marketing company whereby we buy and sell products (Phone Cards) or time of of huge companies (Union Telecom, OTC, Locus, Ultimate Communications, etc) that either are also just selling their own name brand cards or have their own switches or routes. In other words, we buy cards that are already famous out in the market and keep some profit and resell to other smaller companies/distributors or stores.

The other scenario of our business is when we ask a switch carrier to program a card that would sell really good, or that is better by a few minutes to a certain country, and that it would be better looking, or have a better commission (%), than that of the existing cards in the market. This way we can stay in the market and compete with other companies like ours and also if we are lucky, have a card that is really good and that the consumer is satisfied with and we would be the only one who would be selling it. For the same reason, we do not print carrier information on the cards instead it would say services provided or distributed by my company name. We no longer use our company name as per your request while back. If the consumer has a problem with the phone card, they can easily dial customer service and get a refund or return it to the point of purchase and receive an exchange or credit.

At the present time, We do not have any written contracts with any of the companies that we buy from. Every detail is verbal and based on a good and clean relationship. For example, it is like buying a 12pk of coke, you do not have a contract for that or telling your favorite bakeshop to bake a cake for you in a particular shape or size to suit your needs, you do not have a contract for that either. The carrier approves all the requested cards and rates on the card. The carrier controls the switches and routes. we do not have anything to do with that.

The name of our company was dissolved in late 1999 from Sky Telecom, Inc. due to another company (Skytel, inc.) that did not want us to use it because their company name was similar to ours. In order to resolve this matter in a polite and gentle way and also keeping in mind that their company was formed way

2002 SEP -6 PM 3:35
DIVISION OF
COMPETITIVE SERVICES

DOCKET NO. 020666-TI
DATE: NOVEMBER 7, 2002

Attachment E

before ours, we decided to change the name of our company which would put all other discrepancies to rest.

Last but not least the link buyaphonecard.com is a company based out of Houston, Texas that we link the business to due to good family relationship. That office is a separate office of its own that does Internet business. We provide the Internet link between us due to family relation.

Lastly, we invite you to inspect our premises and be satisfied with seeing that whatever I have stated above is what you will see. I will hereby send a few samples of the products we buy and sell. If you have any other questions or comments please feel free to call on the above number or e-mail me at tinopatel@hotmail.com.

Yours Sincerely,



Tino Patel.
VP, TPC, inc .