

Bane  
McLean

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-**

**DATE:** AUGUST 7, 2003

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

**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (BUYS) OFFICE OF THE GENERAL COUNSEL (ROJAS)

**RE:** DOCKET NO. 030696-TI - COMPLIANCE INVESTIGATION OF 9278 COMMUNICATIONS, INC. FOR APPARENT VIOLATION OF SECTIONS 364.02 AND 364.04, FLORIDA STATUTES.

**AGENDA:** 08/19/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\030696.RCM

**CASE BACKGROUND**

- March 3, 2003 - Staff received a consumer complaint regarding a prepaid phone card labeled *La Rendidora Pa' Colombia*. The back of the phone card lists Universal Phones, Inc. as the service provider and 9278 Communications, Inc. (9278 Communications) as the distributor. Universal Phones, Inc. informed staff via email that it does not provide service for the *La Rendidora Pa' Colombia* prepaid phone card.
- April 10, 2003 - Staff received a consumer complaint regarding a prepaid phone card labeled *Welcome Florida Phonecard*. The back of the phone card lists NTSE Communications as the service provider. Staff is unable

07248 AUG-7 2

CLERK

to locate any information on a company using the name NTSE Communications, Inc. According to the 10-K report filed with the Securities and Exchange Commission for 9278 Communications fiscal year ended December 31, 2002, NTSE Holding Corp., wholly owned by Sajid Kapadia, merged with 9278 Communications on January 31, 2003. As a result, 9278 Communications became a privately held corporation owned by Sajid Kapadia. Staff believes that 9278 Communications is the service provider and is responsible for the prepaid phone cards branded as *La Rendiodora Pa' Colombia* and *Welcome Florida Phonecard*.

- April 21, 2003 - Staff mailed 9278 Communications a certified letter (Attachment A) via United States Postal Service (USPS) requesting that the company investigate the consumer complaints and notifying the company that a certificate of public convenience and necessity (certificate) is required. The green card certified receipt (Attachment B) indicates that the company received staff's letter. The letter was also sent via facsimile and the facsimile transmission verification report indicates that the letter was transmitted successfully (Attachment C). A response was due on May 9, 2003.
- May 14, 2003 - Staff received a consumer complaint regarding a prepaid phone card labeled *Arroz Con Pollo Florida Phone Card*. The back of the phone card lists 9278 Communications as the service provider. (A copy of the phone card is provided in Attachment D).
- May 22, 2003 - Staff mailed 9278 Communications a second certified letter (Attachment E) via USPS requesting that the company investigate the consumer complaint regarding the *Arroz Con Pollo Florida Phone Card*. Again, staff requested that the company submit an application for an interexchange company certificate. At that time, Commission rules required that intrastate interexchange telecommunications companies (IXCs) providing prepaid calling services (PPCS) within the state obtain a certificate. The certified mail return receipt (Attachment F) indicates that the company received the letter on or about May 27, 2003. A response was due on June 16, 2003.

- June 3, 2003 - Staff received a second consumer complaint regarding the *Arroz Con Pollo Florida Phone Card*. (A copy of the phone card is provided in Attachment G.)
- June 25, 2003 - Staff received a third consumer complaint regarding the *Arroz Con Pollo Florida Phone Card* (A copy of the phone card is provided in Attachment H.) In all three complaints, the consumers claim that the *Arroz Con Pollo Florida Phone Card* did not provide the full amount of minutes as advertised.
- July 25, 2003 - Staff opened this docket to address the company's apparent violation of Sections 364.02(13)(g) and 364.04, Florida Statutes.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.02(13)(g), 364.04, and 364.285 Florida Statutes. Further, staff's recommended penalties are consistent with penalties imposed upon other prepaid calling service providers by the Commission in previous dockets for similar types of apparent rule violations, such as, the failure to obtain a certificate. Accordingly, staff believes the following recommendations are appropriate.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission impose a \$25,000 penalty upon 9278 Communications, Inc. for its apparent violation of Sections 364.02(13) and 364.04, Florida Statutes, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

**RECOMMENDATION:** Yes. If 9278 Communications, Inc. fails to timely protest the Commission's Order, and fails to file a tariff and provide the Commission with current contact information, the company should also be required to immediately cease and desist providing intrastate interexchange telecommunications services in Florida upon issuance of the Consummating Order until the company files a tariff and provides the Commission with current contact information. **(Buys, Rojas)**

**STAFF ANALYSIS:**

**Apparent Deficiency**

As outlined in the case background, the Commission received five consumer complaints regarding the prepaid phone card services provided by 9278 Communications during the four month period from March 3, 2003, through June 25, 2003. The phone cards branded as *Arroz Con Pollo Florida Phone Card* list 9278 Communications as the service provider. Hence, it appears that 9278 Communications is providing intrastate interexchange telecommunications services to the public within the state, and thus, is required to file a tariff and provide the Commission with current contact information. As of the filing date for this recommendation, 9278 Communications has not filed a tariff with the Commission, nor provided the Commission with current contact information in apparent violation of Sections 364.02(13) and 364.04, Florida Statutes.

Staff sent two certified letters to 9278 Communications and the certified mail return receipts indicate that the company received both letters. The letters were sent prior to date of the passage of the Tele-Competition Innovation and Infrastructure Enhancement Act (Tele-Competition Act) and informed the company of its requirement to obtain a certificate. Part of the certification process included the filing of a tariff and providing current company contact information to the Commission. Even though staff's letters addressed the company's apparent requirement to obtain a

certificate, 9278 Communications still should have responded to staff's inquiries regarding the certification issue and addressed the consumer complaints. Staff believes that the company has been adequately notified of its apparent obligations and provided sufficient time to contact staff.

Applicable Florida Statutes

On May 23, 2003, Florida state legislators passed the Tele-Competition Act which no longer requires an IXC providing services within the state to obtain a certificate. However, Section 364.02(13), Florida Statutes, requires each IXC to provide the Commission with information to contact and communicate with the company. Section 364.02(13), Florida Statutes, states in pertinent part:

Each intrastate interexchange telecommunications company shall continue to be subject to ss. 364.04, 364.10(3)(a), and (d), 364.285, 364.163, 364.501, 364.603, and 364.604, shall provide the commission with such current information as the commission deems necessary to contact and communicate with the company . . . .

Further, the Tele-Competition Act did not amend Section 364.04, Florida Statutes. IXCs providing service within the state are still required to file a tariff with the Commission in accordance with Section 364.04(1), Florida Statutes, which states:

Upon order of the commission, every telecommunications company shall file with the commission, and shall print and keep open to public inspection, schedules showing the rates, tolls, rentals, contracts, and charges that a company for service to be performed within the state.

Proposed Penalty

Staff believes that 9278 Communications' failure to file a tariff and provide the Commission with current contact information is a "willful violation" of Sections 364.02(13) and 364.04, Florida Statutes, in the sense intended by Section 364.285, Florida Statutes.

Pursuant to Section 364.285(1), Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each day a violation continues, if such entity is found to have *refused to comply with or to have willfully violated* any lawful rule or order of the Commission, or any provision of Chapter 364, Florida Statutes.

Section 364.285(1), Florida Statutes, however, does not define what it is to "willfully violate" a rule or order. Nevertheless, it appears plain that the intent of the statutory language is to penalize those who affirmatively act in opposition to a Commission order or rule. See, Florida State Racing Commission v. Ponce de Leon Trotting Association, 151 So.2d 633, 634 & n.4 (Fla. 1963); *c.f.*, McKenzie Tank Lines, Inc. v. McCauley, 418 So.2d 1177, 1181 (Fla. 1<sup>st</sup> DCA 1982) (there must be an intentional commission of an act violative of a statute with knowledge that such an act is likely to result in serious injury) [citing Smit v. Geyer Detective Agency, Inc., 130 So.2d 882, 884 (Fla. 1961)]. Thus, a "willful violation of law" at least covers an act of purposefulness.

However, "willful violation" need not be limited to acts of commission. The phrase "willful violation" can mean *either* an intentional act of commission or one of omission, that is *failing* to act. See, Nuger v. State Insurance Commissioner, 238 Md. 55, 67, 207 A.2d 619, 625 (1965) [emphasis added]. As the First District Court of Appeal stated, "willfully" can be defined as:

An act or omission is 'willfully' done, if done voluntarily and intentionally and with the specific intent to do something the law forbids, or *with the specific intent to fail to do something the law requires to be done*; that is to say, with bad purpose either to disobey or to disregard the law.

Metropolitan Dade County v. State Department of Environmental Protection, 714 So.2d 512, 517 (Fla. 1<sup>st</sup> DCA 1998) [emphasis added].

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In other words, a willful violation of a statute, rule or order is also one done with an intentional disregard of, or a plain indifference to, the applicable statute or regulation. See, L. R. Willson & Sons, Inc. v. Donovan, 685 F.2d 664, 667 n.1 (D.C. Cir. 1982).

Thus, the failure of 9278 Communications to file a tariff and provide the Commission with current contact information meets the standard for a "refusal to comply" and "willful violations" as contemplated by the Legislature when enacting section 364.285, Florida Statutes.

Nor could 9278 Communications claim that it did not know that it had the duty to file a tariff and provide the Commission with current contact information. "It is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833); see, Perez v. Marti, 770 So.2d 284, 289 (Fla. 3<sup>rd</sup> DCA 2000) (ignorance of the law is never a defense). Moreover, in the context of this docket, all intrastate interexchange telecommunication companies, like 9278 Communications, are subject to the rules published in the Florida Administrative Code. See, Commercial Ventures, Inc. v. Beard, 595 So.2d 47, 48 (Fla. 1992).

Further, the amount of the proposed penalty (\$25,000) is consistent with penalties previously imposed by the Commission upon IXCs that were providing intrastate interexchange services within the state and failed to obtain a certificate. Staff believes that the act of providing intrastate IXC services within the state without filing a tariff and providing the Commission with current contact information is comparable to providing IXC services within the state without a certificate and should carry the same penalty. Thus, staff recommends that the Commission find that 9278 Communications has, by its actions and inactions, willfully violated Sections 364.02(13) and 364.04, Florida Statutes, and impose a \$25,000 penalty on the company to be paid to the Florida Public Service Commission.

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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, 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. If the Commission's Order is not protested and the payment of the penalty is not received within fourteen calendar days after the issuance of the Consummating Order, the collection of the penalty should be referred to the Department of Financial Services. This docket should be closed administratively upon either receipt of the payment of the penalty or upon the referral of the penalty to the Department of Financial Services. (Rojas)

**STAFF ANALYSIS:** Whether staff's recommendation on Issue 1 is approved or denied, the result will be a Proposed Agency Action Order. If no timely protest to the Proposed Agency Action is filed within 21 days of the date of issuance of the Order, this docket should be closed administratively upon receipt of the payment of the penalty or referral of the penalty to the Department of Financial Services.



STATE OF FLORIDA

COMMISSIONERS:  
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CHARLES M. DAVIDSON



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

## Public Service Commission

April 21, 2003

**Via Certified Mail and Facsimile:**  
**(718) 792-5130**

Mr. Sajid Kapadia  
Chairman, CEO  
9278 Communications, Inc.  
1942 Williamsbridge Road  
Bronx, NY 10461

**Re: FL PSC Consumer Complaints - Case Nos. 527036T and 521388T.**

Dear Mr. Kapadia:

The Florida Public Service Commission received the enclosed complaints regarding prepaid phone cards. A preliminary investigation indicates that your company may be involved in providing service for the phone cards cited in the complaints.

In Case No. 527036T, the phone card branded as the *Welcome Florida Phonecard* lists NTSE Communications, Inc. as the service provider. According to public records, 9278 Communications, Inc. and NTSE Holding Corp. have entered into a merger agreement. Therefore, it appears that your company may be providing services for the *Welcome Florida Phonecard* under the name NTSE Communications, Inc. The complainant claims that he received only 5 minutes of call time on each card.

In Case No. 521388T, the phone card branded as *La Rendidora* lists Universal Phone, Inc. as the service provider. Our records list Universal Phone Corporation as a certificated company, but the company has stated that they do not provide service for the *La Rendidora* phone card. 9278 Communications, Inc. is listed as the distributor for this phone card. The complainant claims that the maintenance fee of \$0.45 per 20 minutes of call time was not listed on the card.

Mr. Kapadia, please investigate this matter and the issues in the consumer complaints and provide me with a written reply no later than **May 9, 2003**. For the complaint regarding the *La Rendidora* phone card (Case No. 521388T), please provide me with documentation that shows the applicable surcharges are disclosed at the point of sale. Also, if your company is not the service provider for the *La Rendidora* phone card, please provide me with the full company name, mailing address, physical address, and name of a contact person, including a number where they can be

Mr. Sajid Kapadia  
Page 2  
April 21, 2003

reached, for Universal Phones, Inc. If your company is the service provider for the *Welcome Florida Phonocard*, please provide me with the call detail records, the applicable rate deck, including all surcharges, and any promotional material used to market the *Welcome Florida Phonocard*. If your company is not providing service for the *Welcome Florida Phonocard*, please indicate as such in your reply.

Additionally, if your company is providing prepaid calling services in Florida, it is required to obtain a certificate of public convenience and necessity pursuant to Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, which states:

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. The name used as the provider of PPCS printed on the prepaid calling card shall appear identical to the name in which the certificate is issued. A "doing business as" name may be used in lieu of the certificated name if it is registered as a fictitious name with the Florida Division of Corporations and reflected on the certificate before the name is used on the card.

If applicable, please file an application with the Florida Public Service Commission to obtain an interexchange company certificate no later than **May 19, 2003**. You can find the necessary information, an application form, and a copy of the Commission's rules on our website, [www.floridapsc.com](http://www.floridapsc.com).

Should you have any questions regarding this request, please do not hesitate to contact me to clarify this matter.

Sincerely,



Dale R. Buys  
Regulatory Analyst  
Bureau of Service Quality

Voice: (850) 413-6536  
Fax: (850) 413-6537  
Email: [dbuys@psc.state.fl.us](mailto:dbuys@psc.state.fl.us)

DRB  
Enclosures (2)

Request No. 527036T

Name DELGADO , CONARADO

Business Name

DOCKET NO. 030696-TI  
DATE: August 7, 2003

<p align="center"><b>Consumer Information</b></p> <p>Name: CONARADO DELGADO</p> <p>Business Name:</p> <p>Svc Address: 955 S.W. 2ND AVE. 1501</p> <p>County: Dade Phone: (305)-285-8972</p> <p>City/Zip: Miami / 33130-</p> <p>Account Number:</p> <p>r's Name: CONARADO DELGADO</p> <p>ng Address: 955 S.W. 2ND AVE. 1501</p> <p>Zip: MIAMI ,FL 33130-</p> <p>e Reached:</p> <p>Tracking Number:</p>	<p align="center"><b>Florida Public Service Commission - Consumer Request 2540 Shumard Oak Boulevard Tallahassee, Florida 32399 850-413-6100</b></p>	<p align="center"><b>PSC Information</b></p> <p>Assigned To: DALE BUYS</p> <p>Entered By: PW</p> <p>Date: 04/10/2003</p> <p>Time: 09:03</p> <p>Via: PHONE</p> <p>Prelim Type: OTHER</p> <p>PO:</p> <p>Disputed Amt: 0.00</p> <hr/> <p>Supmntl Rpt Req'd: / /</p> <p>Certified Letter Sent: / /</p> <p>Certified Letter Rec'd: / /</p> <hr/> <p>Closed by:</p> <p>Date: / /</p> <p>Closeout Type:</p> <p>Apparent Rule Violation: N</p>
<p align="center"><b>Utility Information</b></p> <p>Company Code: NA</p> <p>Company:</p> <p>Attn.</p> <p>Response Needed From Company? N</p> <p>Date Due: 05/09/2003</p> <p>Fax: R</p>	<p>Interim Report Received: / /</p> <p>Reply Received: / /</p> <p>Reply Received Timely/Late:</p> <p>Informal Conf.: N</p>	

Preclose type - Prepaid Calling Card

Request customer send in a copy of the front and back of the card. Done

When did you purchase the card? 2 cards at \$10.00 each.

Where did you purchase the card? gas station

What was the cost of the card? \$10.00

How many minutes were on the card? 5 min

Other Comments: Customer states that he can't find a calling card that promises what they say in terms of min

Request No. 527036T

Name DELGADO , CONARADO

Business Name

Attachment A

per dollars. Customer states that on the card involved in this case he got 3 min for \$10.00.

Please investigate this matter, contact the customer, and provide a detailed written report to the Florida Public Service Commission by the due date.

Case taken by P. Walker  
Send Response to  
Fax number 850-413-7168  
E-mail : PSCREPLY@PSC.STATE.FL.US

04/14/2003 NTSE Communications, Inc. is not found in the Master Commission Directory. Forwarding to technical for review. ACalhoun

4/17/2003 Case reassigned to the Division of Competitive Markets & Enforcement. P.Lowery

04/18/03: Letter drafted to send to 9278 Communications, Inc. The company has recently merged with NTSE Holding Corp. A reply to staff's inquiry is due on May 9, 2003. A letter was drafted to send to customer informing him of the change in staff handling his complaint. drbuys.

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Request No. 527036T	Name DELGADO ,CONARADO	Business Name
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DOCKET NO. 030696-TI

DATE: August 7, 2003

0 del 2003

Felipe:

Estas son la parte trasera de las tarjetas telefonica y me quedo es supuesto nombre

**DIAL: 1-877-709-4129**

Pin # 4482 6552 5816 \$5

To place a call dial Access number. Follow the voice prompts. Then call anywhere in the world 24 hours a day and save.

- FOR domestic calls 1 + Area Code + number
- For International Calls 011 + Country Code + City Code + number

Payphone surcharge will apply. Prices and rates are subject to change without notice.

This card bills in one minute increments on every call. Please note daily maintenance fee will be applied after first use.

Service powered by NTSE Communications, Inc.

**For Customer Service dial: 1-877-709-4131**

439285478

**DIAL: 1-877-709-4129**

Pin # 4530 7335 1244 \$5

To place a call dial Access number. Follow the voice prompts. Then call anywhere in the world 24 hours a day and save.

- FOR domestic calls 1 + Area Code + number
- For International Calls 011 + Country Code + City Code + number

Payphone surcharge will apply. Prices and rates are subject to change without notice.

This card bills in one minute increments on every call. Please note daily maintenance fee will be applied after first use.

Service powered by NTSE Communications, Inc.

**For Customer Service dial: 1-877-709-4131**

439285475

Gracias

Conrado

Case number 526-585C

ORIGINAL

Request No. 521388T

Name TELLEZ ,JUAN MR.

Business Name

DOCKET NO. 030696-TI  
DATE: August 7, 2003

**Consumer Information**

Name: JUAN C TELLEZ

Business Name:

Svc Address: 9631 FONTAINEBLEAU BLVD. APT. 202

County: Dade

Phone: (305)-551-8335

City/Zip: Miami

/ 33172-

Account Number:

Customer's Name: JUAN C TELLEZ

Shipping Address: 9631 FONTAINEBLEAU BLVD. APT. 202

Zip: MIAMI ,FL 33172-

Service Reached:

Tracking Number:

**Florida Public Service  
Commission - Consumer Request  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
850-413-6100**

**Utility Information**

Company Code: TJ742

Company: UNIVERSAL PHONE CORPORATION

Attn. Ana I. Upegui521388T

Response Needed From Company? Y

Date Due: 03/31/2003

Fax: 61,305-620-1998

R

Interim Report Received: / /

Reply Received: 03/27/2003

Reply Received Timely/Late:

Informal Conf.: N

**PSC Information**

Assigned To: DALE BUYS

Entered By: LLL

Date: 03/10/2003

Time: 10:46

Via: E-MAIL

Prelim Type: PREPAID CAL

PO:

Disputed Amt: 0.00

Supmntl Rpt Req'd: / /

Certified Letter Sent: / /

Certified Letter Rec'd: / /

Closed by:

Date: / /

Closeout Type:

Apparent Rule Violation: N

Please review the "incorporated" Internet correspondence, located between the quotation marks on this form, in which the customer reports the following:

"Good Morning:

I need your help because I want to send a complaint regarding 9278 Communications Inc, calling card with name 'La Rendidora'.

The situation is that this company charges a maintenance service charge of \$0.45 for each 20 minutes.

And the situation is that they don't inform the customer (in any side of the card) that this charge will be applied. Only has the instructions to use the card, the PIN number and the customer service phone but there is no information of this charges in any side of the card.

Attachment A

Request No. 521388T

Name TELLEZ ,JUAN MR.

Business Name

I understand that any calling card has to inform on the card if there will be a maintenance charge.

I call to the customer service 2 times and the representatives said me that the fee is correct but I said that there is no notice of the fee on the card.

Could you help me\_\_.

Sincerely,

C Tellez"

Thanks a lot for your time.

Name: Juan Carlos Tellez

Address: 9631 Fontainebleau Blvd  
Apt # 202  
Miami, FL 33172

My phone number: 305-551-8335  
786-877-0285

Attached I'm sending the copy of the card (both Sides)

The Supervisor name that talk with me is: Juliana Molina and they assign a case number: 632306.

If you need more information, please let me know.

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Request No. 521388T                      Name TELLEZ ,JUAN MR.                      Business Name

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Sincerely,

Juan C Tellez"

Please investigate this issue, contact the customer and provide the Commission with a detailed written report that addresses the issues in the correspondence, and confirms the customer has been contacted either by letter or phone.

**\*\*Inquiry taken by Loyda Lopez\*\***

CONTACT NUMBERS

CAF FAX: 850/413-7168

CAF Email: pscreply@psc.state.fl.us

3/27/03 Spoke to Fabio with Universal. States he has attempted to contact the customer, but has not been able to reach him. Also states they are not the company being referred to in his complaint. Company will follow up with an e-mail to the PSC.P>Lowery

03/17/03 Report received via email. JARIOLA

4/0 Ren REVIEWED COMPANY'S RESPONSE. Response indicates Universal Phones does not provide services to a Phone. Shonna McCray

Will refer this complaint to supervisor for further review. Shonna McCray

04/09/03: Forwarding to L. Raspberry for transfer to CMP. RRoland

4/17/2003 Case reassigned to the Division of Competitive Markets & Enforcement. P.Lowery

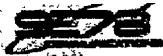
04/18/03: Called the Miami office for 9278 Communications, Inc. (305-406-2888) and left a message in the operations department voice mail to return a call. I requested the name of the company that is providing services for the phone card in the complaint. drbuys. Drafted a letter to send to complainant explaining that the service charges are not required to be printed on the card and that the case has been forwarded to me. drbuys.

Request No. 521388T

Name TELLEZ ,JUAN MR.

Business Name

DOCKET NO. 030696-TI  
DATE: August 7, 2003



\$3

**Indicativos Ciudades**

Arauca	6
Barranquilla	5
Bogotá	1
Bucaramanga	7
Call	2
Cartagena	5
Cúcuta	7
Ibagué	8
Manizales	6
Medellín	4
Montería	4
Municipios Antioquia	4
Municipios C/marca	1
Municipios Valle	2
Nelva	8
Pasto	2
Pereira	6
Popayán	2
Rioacha	5
San Andrés	8
Santa María	5
Tunja y Boyacá	8
Valledupar	5
Villavicencio	8

**La Rendidora  
Pa' Colombia**

- Prices, rates and fees are subject to change without notice.
- If used from a public payphone, additional charges may apply.
- This card has no cash value and is non-refundable. Card expires 3 months from first use.
- Calls using 1-800-482-5614 will have an additional charge per minute.
- Calls made from Colombia will be to USA only.

• Los precios y tarifas pueden ser modificados sin previo aviso.  
• Si se usa desde un teléfono público aplican cargos adicionales.  
• Esta tarjeta no tiene valor monetario y no es reembolsable.  
• La tarjeta vence 3 meses desde el primer uso.  
• Llamadas utilizando 1-800-482-5614 tendrán un cargo adicional por minuto.  
• Las llamadas desde Colombia sólo podrán hacerse a los Estados Unidos.

Distribution: 9278 Communications, Inc  
Tel: 1-888-995-9278

instrucciones para llamadas desde Colombia hacia USA

instrucciones para calls made from Colombia to USA only

- 1 Marque 01 80 05 140 400
- 2 Marque el número de su tarjeta
- 3 Marque el número deseado así:  
1+ Código de área + Número telefónico + #

- 1 Dial 01 80 05 140 400
- 2 Dial you card number
- 3 Dial destination number as follows:  
1+ Area Code + Telephone number + #

Servicio al Cliente 150

Customer Service 150

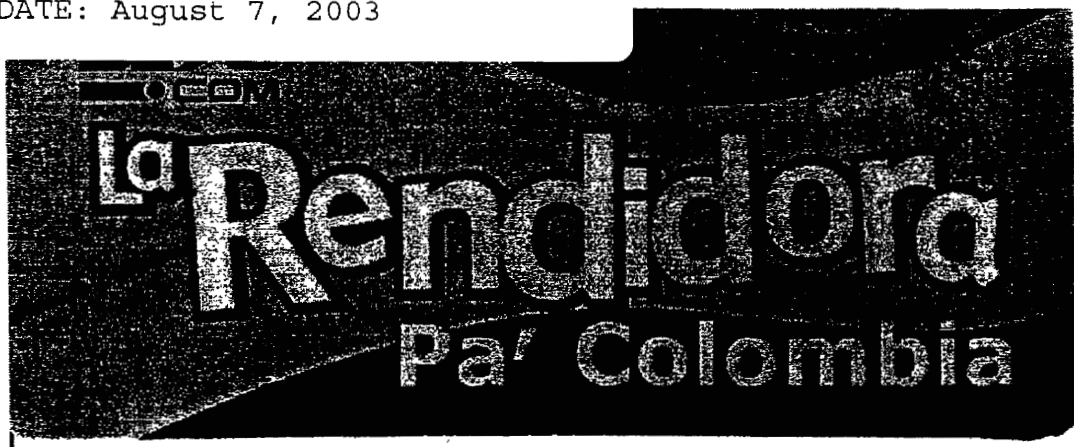
Distribution: 9278 Communications, Inc  
Tel: 1-888-995-9278

Instrucciones para llamadas desde USA		Instructions for calls made in the US	
1 Marque desde:	Dade 786	206 8693	Santord (321) 275 2995
	Broward	(954) 727 8693	St.Petersburg (727) 280 7960
	Boca Raton	(561) 208 8693	Winter Park (321) 274 0875
	West Palm Beach	(561) 202 8693	Clearwater (727) 252 7955
Dial From:	Orlando	(407) 398 6095	Kissimmee (321) 437 0986
	Tampa	(813) 594 8915	Key Largo (305) 735 8693

ORIGINAL

DOCKET NO. 030696-TI

DATE: August 7, 2003



ORIGINAL

DOCKET NO. 030696-TI  
DATE: August 7, 2003


1800 482-5614

Para llamar a Colombia: 011-57- Código ciudad - Número telefónico - Telex #  
 Para llamar a los Estados Unidos: 1- Código de área - Número telefónico - Telex #  
 Para llamadas internacionales: 011- Código de País - Código ciudad - Número telefónico - Telex #  
 Customer Service/Service al Cliente marque: 1800-482-5614  
 Service provided by: Servicio al Cliente  
 Service in Colombia provided by: CORTEL S.A. ESP - Colombia


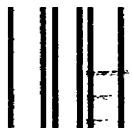


126-0

ORIGINAL

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits,</li> </ul>	A. Received by (Please Print Clearly) <i>SQUID SIGNATURE</i>	B. Date of Delivery
Mr. Sajid Kapadia, Chairman, CEO 9278 Communications, Inc. 1942 Williamsbridge Road Bronx, New York 10461 	C. Signature X <i>SJK</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
	3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
7002 0860 0001 1754 4986		
PS Form 3811, March 2001	Domestic Return Receipt	102595-01-M-1424


UNITED STATES POSTAL SERVICE


First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

**Mr. Dale Buys**  
**Florida Public Service Commission**  
**2540 Shumard Oak Blvd,**  
**Tallahassee, FL 32399-0850**



DIVISION OF  
 REGULATORY SERVICES  
 APR 29 AM 10:36

01 

DOCKET NO. 030696-TI  
DATE: August 7, 2003

TRANSMISSION VERIFICATION REPORT

Attachment C

TIME : 04/21/2003 15:25  
NAME :  
FAX :  
TEL :

DATE, TIME	04/21 15:19
FAX NO./NAME	17187925130
DURATION	00:06:17
PAGE(S)	12
RESULT	OK
MODE	STANDARD ECM

To: Florida Public Service  
Commission.

AT: MR. N. FORSMAN.

Ref. # 532723-C

FROM: MR. TOMAS MARTINEZ

8738 NW 110 LN.

Hialeah Gardens FL 33018

Ph: 305-556-0298

ARROZ CON  
POLLO  
FLORIDA

\$5 ORIGINAL

Ningun cargo de servicio mensual se aplicara. Esta tarjeta tiene 3 minutos de redondeo. Esta tarjeta no tiene ningun valor en efectivo y no es reembolsable. No valide su tarjeta si la cobertura esta abierta o el Pin esta visible. Para fecha de vencimiento, presione \*1

www.9278.com



MAY 13 2003

Spanish # Marque: 1-866-692-1411 English # Dial: 1-866-692-1409

Pin # **9219 0483 5224** \$5

- 1. Marque su código secreto y oprima #.
- 2. Enter your PIN number and press #
- 3. Para llamar en USA, Canada o el Caribe marque 1 - código de area - número de telefono.
- 3. For domestic calls in the USA, Canada and the Caribbean dial 1 - area code - telephone number
- 4. Para llamar a cualquier otro país marque 011 - código del país - código de ciudad - número de telefono.
- 4. If calling to any other country, dial 011 - country code - city code - phone number
- 5. Para hacer otra llamada marque #.
- 5. For another call press #

El número de acceso gratuito está limitado solamente para Florida.

Service not available / Customer service: 1-866-692-1409. Service provided by 9278 Communications.

po307/AIS-D03

95-417383



DOCKET NO. 030696-TI  
DATE: August 7, 2003

Attachment E

STATE OF FLORIDA

COMMISSIONERS:  
LILA A. JABER, CHAIRMAN  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON



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

## Public Service Commission

May 23, 2003

**CERTIFIED**

9278 Communications  
1942 Williamsburg Road  
Bronx, NY 10461

Dear Sir or Madam:

The Florida Public Service Commission (Commission) received a complaint (No. 533102T, enclosed) against 9278 Communications on May 14, 2003, from Mr. Tomas Martinez regarding a prepaid calling card issued by 9278 Communications. Mr. Martinez stated that when he dialed the access number, a recording informed him that he had 126 minutes on the card. When he had used 53 minutes during his call, he was interrupted by a recording informing him that he had one minute left on the card. He stated that he only got 54 minutes of call time for the card. He believes that the company's charging practices are fraudulent and that it should issue a \$5.00 refund to him.

Please provide a written response addressing the manner in which 9278 Communications will resolve Mr. Martinez's complaint by June 16, 2003. Mr. Martinez' contact information is listed on the enclosed complaint form.

Further, please provide the following information for each phone call using the Arrozo con Pollo Florida pre-paid phone card with PIN number 8213 0483 5224:

1. Date and time of call
2. Point of origin of call (city, state, phone number, pay phone (yes/no))
3. Destination of call (city, state, phone number)
4. Duration of call
5. Additional charges pertaining to the call

In short, provide a complete breakdown of how the account for that PIN went from \$5.00 to \$0.00. Please include a copy of the point-of-sale information supplied with your pre-paid phone cards in Florida, as well as the name of the network company from whom you purchase time. This information should be included in your June 16, 2003, response.

The analyst from the Commission's Division of Consumer Affairs (CAF) forwarded the complaint to the Compliance section of the Division of Competitive Markets & Enforcement. The reason it was forwarded is that, upon investigation of the complaint, CAF discovered that 9278 Communications does not have an interexchange (IXC) certificate to provide telecommunications



9278 Communications  
Page 2  
May 23, 2003

services in Florida. Rule 25-24.910, Florida Administrative Code (F.A.C.), states that a company shall not provide prepaid calling services (PPCS) without first obtaining a certificate of public convenience and necessity as a local exchange company, alternative local exchange company, or interexchange company (IXC). The name used as the provider of PPCS printed on the prepaid calling card shall appear identical to the name in which the certificate is issued. A "doing business as" name may be used in lieu of the certificated name if it is registered as a fictitious name with the Florida Division of Corporations, and reflected on the certificate before the name is used on the card.

As the provider of PPCS in Florida, 9278 Communications must obtain an IXC certificate from the Commission prior to offering such services to the public. The IXC certificate application package with instructions can be downloaded from the following website:

[www.psc.state.fl.us/industry/telecomm/ixc/ixcapp.cfm](http://www.psc.state.fl.us/industry/telecomm/ixc/ixcapp.cfm)

Please complete the IXC application package and submit the completed package in accordance with the instructions contained therein by June 16, 2003. Please send a courtesy copy of the application cover letter to me for my records.

Section 364.285, Florida Statutes, provides that the Commission has the power to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each offense if it is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission. Each day that such refusal or violation continues constitutes a separate offense.

To summarize, 9278 Communications should provide the following by the dates given:

- Response to the customer complaint - June 16, 2003
- IXC certification application - June 16, 2003

I strongly urge you to provide complete and accurate responses to all requests made in this letter by June 16, 2003. If you have any questions, please contact me at (850) 413-6952.

Sincerely,



Melinda Watts  
Bureau of Service Quality

Enclosure

cc: Department of Revenue  
Division of Competitive Markets & Enforcement (Gilchrist)

Ref: TMS 153  
CATS 533102T

Request No. 533102T

Name MARTINEZ ,TOMAS

Business Name

DOCKET NO. 030696-TI  
DATE: August 7, 2003

**Consumer Information**

Name: TOMAS MARTINEZ

Business Name:

Svc Address: 8738 NW 110TH LANE

County: Dade

Phone: (305)-556-0298

City/Zip: Hialeah

/ 33018-

Account Number:

Caller's Name: TOMAS MARTINEZ

g Address: 8738 NW 110TH LANE

Zip: HIALEAH ,FL 33018-

Reached: (305)-556-0298

king Number:

**Florida Public Service  
Commission - Consumer Request  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
850-413-6100**

**Utility Information**

Company Code: NA

Company: 9278 COMMUNICATIONS

Attn.

Response Needed From Company? Y

Date Due: 06/05/2003

Fax:

R

Interim Report Received: / /

Reply Received: / /

Reply Received Timely/Late:

Informal Conf.: N

**PSC Information**

Assigned To: MELINDA WATT.

Entered By: NEF

Date: 05/14/2003

Time: 12:28

Via: FAX

Prelim Type: PREPAID CALLI

PO:

Disputed Amt: 5.00

Supmntl Rpt Req'd: / /

Certified Letter Sent: / /

Certified Letter Rec'd: / /

Closed by:

Date: / /

Closeout Type:

Apparent Rule Violation: N

Attachment E

Please review the attached correspondence in which the customer reports the following:

Preclose type - Prepaid Calling Card

When did you purchase the card? 5/12/03

Where did you purchase the card? Variety Store in Hialeah Gardens Area

What was the cost of the card? \$5.00

How many minutes were on the card? 126 min. when calling access number

Other Comments: The customer states that he purchased the calling card for \$5.00. The card states that the

Request No. 533102T

Name MARTINEZ ,TOMAS

Business Name

access number is free. When the customer called the access number, a recording identified that the card had 126 minutes calling time. At 53 minutes, a warning stated the caller had 1 minute remaining. The call terminated after 54 minutes. The customer called customer services and was told that the company has to pay a lot of connection charges that are charged against the card. The card states that access is free. The customer believes this is fraudulent and wants a refund for \$5.00 and wants the company held responsible and accountable for their actions.

Please investigate this issue, contact the customer and provide the Commission with a detailed written report that addresses the issues in the correspondence, and confirms the customer has been contacted either by letter or phone.

PLEASE NOTE\*\* The information on this form is only a summary of the customer's concerns. Additional information, important to this matter, may be contained in the correspondence.


\*\*Inquiry taken by Neal Forsman\*\*

CONT. MEMBERS  
CAF 350/413-7168  
CAF pscreply@psc.state.fl.us

05/17 Unable to locate company 9278 Communications in the Master Commission Directory as a certificated name; a DBA. Forwarding to CMP for review. ACalhoun

5/20 Case reassigned to the Division of Competitive Markets and Enforcement. P. Lowery

Request No. 533102T Name MARTINEZ ,TOMAS Business Name \_\_\_\_\_

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Received by (Please Print Clearly) _____ B. Date of Delivery _____</p> <p>C. Signature _____ <input type="checkbox"/> Agent  <input checked="" type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes                  If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Addressee</p> <p>9278 Communications                  1942 Williamsburg Road                  Bronx, New York 10461</p> 	<p>3. Service Type</p> <p><input type="checkbox"/> Certified Mail    <input type="checkbox"/> Express Mail  <input type="checkbox"/> Registered        <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail       <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

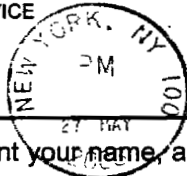
2. Article Number  
 (Transfer from service label)

PS Form 3811, March 2001

Domestic Return Receipt

102595-01-M-1424

UNITED STATES POSTAL SERVICE



First-Class Mail  
 Postage & Fees Paid  
 USPS  
 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

*Melinda Watts  
 Florida Public Service Commission  
 2540 Shumard Oak Blvd.  
 Tallahassee, FL 32399-0850*

32399-0850



DOCKET NO. 030696-TI  
DATE: August 7, 2003

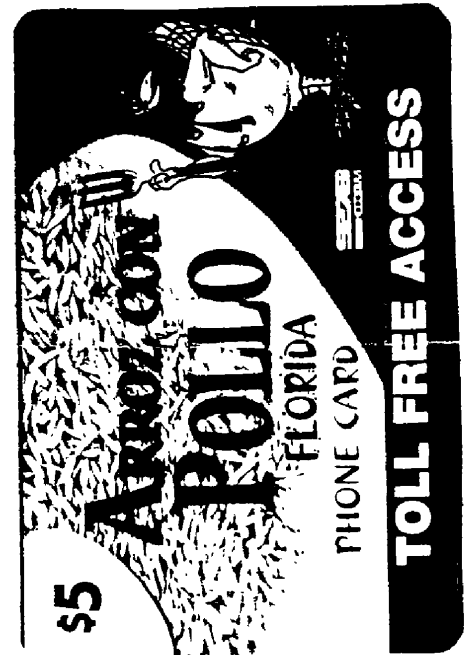
Attachment G

Elisa Betancourt  
350 E. 53rd St  
Miami, FL 33013  
305-557-7379

Card Purchased @  
C-160 Gas Station.  
5485 Kalam Hill  
Hialeah, FL 33013

ORIGINAL

JUN - 2 2003



Spanish # Marquero: 1-866-692-1411 English # Dial: 1-866-692-1409

Pin # **7026 7454 7478** \$5

2 Marque su código secreto y apriete #  
 3 Para llamar en USA, Canadá, o el Caribe mar-  
 que 1 + código de área + número de teléfono  
 4 Para llamar a cualquier otro país marque  
 011 + código del país + código de la ciudad +  
 número de teléfono

2 Enter your PIN number and press #  
 3 For domestic calls in the USA, Canada and the  
 Caribbean dial 1 + area code + telephone number  
 4 If calling to any other country dial  
 011 + country code + city code + phone number  
 to make another call, press #

El número de acceso gratuito está limitado solamente para Florida.  
 Servicio al cliente / Customer service: 1-866-436-6666 Service provided by 979 Communications  
 PO307/AIS-C03 95-263622

This card promised one hour 42 minutes and I was  
only able to use 48 minutes, I called the # for customer  
service and I was told that the rest of the minutes  
were used for card maintenance and no credit was  
going to be provided

Thanks,  
Eggs, Successful!!!

ORIGINAL

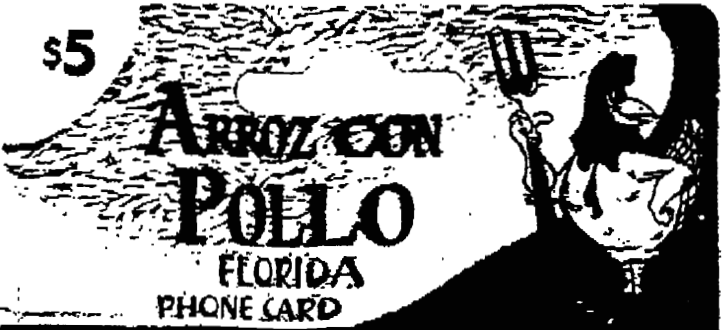
Attention: Diana  
Ref. # 539268C

ARROZ CON  
POLLO  
FLORIDA

\$5

Ningún cargo de servicio mensual se aplicará. Esta tarjeta tiene 3 minutos de redondeo. Esta tarjeta no tiene ningún valor en efectivo y no es reembolsable. No valige su tarjeta si la cobertura esta abierta o el Pin esta visible. Para fecha de vencimiento; presione \*1

www.9278.com



\$5

SIN CARGO DE CONEXION

Spanish # Marque: 1-866-692-1411 English # Dial: 1-866-692-1409

Pin # \$5

- 2. Marque su código secreto y oprima #
- 3. Para llamar en USA, Canada o el Caribe marque: código de área + número de telef-no.
- 4. Para llamar a cualquier otro país marque: 011 + código del país + código de la ciudad + número de teléfono.
- 2. Enter your PIN number and press #
- 3. For domestic calls in the USA, Canada and the Caribbean dial: area code + telephone number.
- 4. If calling to any other country dial: 011 + country code + city code + phone number. To make another call, press #

El número de acceso gratuito esta limitado solamente para Florida.  
Servicio al cliente / Customer service: 1-866-692-9848 Servicio provided by 9278 Communications

po307/AIS-E03 95-664553



\$5

PHONE CARD

TOLL FREE ACCESS