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: SEPTEMBER 4, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION

ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (BUYS)

OFFICE OF THE GENERAL COUNSEL (ROJAS)

DIVISION OF CONSUMER AFFAIRS (LOWER

RE: DOCKET NO. 030618-TX - COMPLIANCE INVESTIGATION OF UNITED

STATES TELECOMMUNICATIONS, INC. D/B/A TEL COM PLUS FOR APPARENT VIOLATION OF RULE 25-22.032(5)(A), F.A.C., CUSTOMER COMPLAINTS, AND 25-4.0161, F.A.C., REGULATORY

ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 09/16/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION -

INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030618.RCM

CASE BACKGROUND

Company Background

- May 26, 1998 United States Telecommunications, Inc. d/b/a Tel Com Plus (Tel Com Plus) obtained Florida Public Service Commission competitive local exchange telecommunications company (CLEC) Certificate No. 5586.
- December 20, 1999 Staff opened Docket No. 991970-TX to address the company's failure to pay Regulatory Assessment Fees (RAFs) for the 1998 calendar year, a violation of Rule 25-4.0161, Florida Administrative Code (F.A.C.), Regulatory Assessment Fees; Telecommunications Companies.

DOCUMENT NUMBER - DATE

RLT

08242 SEP-48

• July 7, 2000 - In Docket No. 991970-TX, the Commission issued Order No. PSC-00-1236-AS-TX in which it accepted the company's settlement offer to resolve its violation of Rule 25-4.0161, Florida Administrative Code. In its settlement offer, the company proposed to pay future RAFs in a timely manner, and contribute \$100 to the State General Revenue Fund.

- August 17, 2000 The Commission received the company's \$100 settlement contribution and Docket No. 991970-TX was closed on August 21, 2000.
- April 4, 2001 Tel Com Plus paid \$164.27 towards its 2000 RAF. However, a total RAF of \$369.61 was due on January 30, 2001. The company failed to pay in full and in a timely manner. The company still owes an outstanding balance in the amount of \$246.40 for its 2000 RAF.
- February 8, 2002 Tel Com Plus reported gross intrastate revenue of \$1,510,593 for the calendar year 2001 on its 2001 Regulatory Assessment Fee (RAF) return.

Failure to Respond to Staff's Inquiries

- March 17 & 27, 2003 Staff received two customer complaints (Attachments A & B) regarding the billing and service provided by Tel Com Plus.
- April 30, 2003 Staff sent the company a certified letter from General Counsel (Attachment C) advising the company that a company response to the customer complaints has not been received and Tel Com Plus is potentially at risk of being penalized or having its certificate revoked. The certified mail return receipt (Attachment D) indicates that the company received the letter on May 5, 2003.
- June 16, 2003 Staff sent the company a second certified letter (Attachment E) requesting that the company investigate the customer complaint and provide staff with a written response by June 30, 2003. The certified mail return receipt (Attachment F) indicates that the company received the letter on June 23, 2003.
- August 12, 2003 Staff changed the title on this docket to add the apparent violation of Rule 25-22.032(5)(a), F.A.C., Customer Complaints.

Failure to Pay 2002 RAF

• December 12, 2003 - Staff mailed the 2002 Regulatory Assessment Fee (RAF) return notice to the company.

- February 20, 2003 Staff mailed a second notice to the company advising it that its 2002 RAF is delinquent. The certified mail receipt (Attachment G) indicates that the company received the letter on February 26, 2003.
- April 11, 2003 Staff mailed a letter (Attachment H) to the company advising that Commission records do not show that the company's 2002 RAF payment has been received. The letter also stated that a docket would be opened if the 2002 RAF, plus penalty and interest, was not received by April 30, 2003.
- July 3, 2003 Staff mailed a final letter (Attachment I) to the company informing it that its 2002 RAF has not been received and that a docket would be established for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.
- July 15, 2003 This docket was opened to address Tel Com Plus's apparent violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

The Commission is vested with jurisdiction over this matter pursuant to Sections 364.183, 364.285, 364.336, and 364.337, Florida Statutes. Further, staff's recommended penalties are consistent with penalties imposed upon other telecommunications companies by the Commission in previous dockets for similar types of apparent rule violations. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission impose a penalty of \$10,000 per apparent violation, for a total of \$20,000, on United States Telecommunications, Inc. d/b/a Tel Com Plus for two apparent violations of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. If United States Telecommunications, Inc. d/b/a Tel Com Plus fails to timely protest the Commission's Order and fails to pay the \$20,000 penalty within fourteen calendar days after the issuance of the Consummating Order, Certificate No. 5586 should be canceled and the company should also be required to immediately cease and desist providing competitive local exchange telecommunications services in Florida. (Buys, Rojas, Lowery)

STAFF ANALYSIS: As outlined in the case background, Tel Com Plus has been notified by two certified letters of the customer complaints received by the Commission. The certified mail receipts indicate that the company received both of them. As of September 4, 2003, Tel Com Plus has not responded to the customer complaints in apparent violation of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints, which states:

The staff member will notify the company of the complaint and request a response. The company shall provide its response to the complaint within fifteen (15) working days. The response shall explain the company's actions in the disputed matter and the extent to which those actions were consistent with applicable statutes and regulations. The response shall also describe all attempts to resolve the customer's complaint.

Staff believes that Tel Com Plus's failure to provide the required responses to the customer complaints is a "willful violation" of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints, 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, or revoke any certificate issued by it for any such violation.

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. 1st 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. 1st DCA 1998) [emphasis added]. 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 Tel Com Plus to provide staff with written responses to the consumer complaints within fifteen working days meets the standard for a "refusal to comply" and a "willful violation" as contemplated by the Legislature when enacting section 364.285, Florida Statutes.

Nor could Tel Com Plus claim that it did not know that it had the duty to respond to staff's inquiries. "It is a common maxim,

familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." <u>Barlow v. United States</u>, 32 U.S. 404, 411 (1833); <u>see</u>, <u>Perez v. Marti</u>, 770 So.2d 284, 289 (Fla. 3rd DCA 2000) (ignorance of the law is never a defense). Moreover, in the context of this docket, all telecommunication companies, like Tel Com Plus, by virtue of their Certificate of Public Convenience and Necessity, are subject to the rules published in the Florida Administrative Code. <u>See</u>, Commercial Ventures, Inc. v. Beard, 595 So.2d 47, 48 (Fla. 1992).

Staff's recommendation on this issue is consistent with the Commission's previous decision for similar violations in Docket No. 010206-TI, <u>Initiation of show cause proceedings against Telquest Communications</u>, Inc. d/b/a Advantage Plus Telecommunications, Inc. for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

Thus, staff recommends that the Commission find that Tel Com Plus has, by its actions and inactions, willfully violated Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints, and impose a penalty of \$20,000 on the company to be paid to the Florida Public Service Commission.

ISSUE 2: Should the Commission impose a \$1,000 penalty on United States Telecommunications, Inc. d/b/a Tel Com Plus or cancel certificate number 5586 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, incorporated by Rule 25-24.835, Florida Administrative Code, Rules Incorporated, to be paid to the Florida Public Service Commission within fourteen calendar days after the issuance of the Consummating Order?

RECOMMENDATION: Yes. If United States Telecommunications, Inc. d/b/a Tel Com Plus fails to timely protest the Commission's Order and fails to pay the \$1,000 penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, within fourteen calendar days after the issuance of the Consummating Order, Certificate No. 5586 should be canceled, and the company should also be required to immediately cease and desist providing competitive local exchange telecommunications services in Florida. If the Regulatory Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, the collection of the past due fees should be referred to the Department of Financial Services for further collection efforts. (Buys, Rojas)

STAFF ANALYSIS: According to Commission records, Tel Com Plus has not paid its 2002 RAFs, plus statutory penalty and interest Staff wrote Tel Com Plus in an attempt to bring the company into compliance with the RAF rule. No payment or written response was received; therefore, it appears Tel Com Plus has failed to comply with Rule 25-4.0161, Florida Administrative Code, Assessment Fees; Telecommunications Regulatory incorporated by Rule 25-24.835, Florida Administrative Code, Rules Incorporated, and has not requested cancellation of its certificate in compliance with Rule 25-24.820(2), Florida Administrative Code, Revocation of a Certificate. Further, pursuant to Section 364.336, Florida Statutes, cancellation of an entity's certificate does not relieve the obligation to pay RAFs, including statutory penalty and interest charges, if the certificate was active during any portion of the calendar year, including the year of cancellation.

In the company's settlement offer in Docket No. 991970-TX to resolve this same rule violation for not paying its 1998 RAFs, the company indicated it would pay future RAFs in a timely manner. Whereas this is the second time that the company has violated the RAF rule, staff believes its recommended penalty of \$1,000 is appropriate and is consistent with the Commission's previous decisions for a second violation of the RAF rule.

Staff believes that Tel Com Plus's apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies, has been "willful" in the sense intended by Section 364.285, Florida Statutes, and pursuant to Section 364.285, 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 offense, if such entity is found to have refused to comply with any lawful rule of the Commission.

Accordingly, staff recommends that if Tel Com Plus fails to timely protest the Commission's Order and fails to pay the \$1,000 penalty and the Regulatory Assessment Fees, including statutory penalty and interest charges, within fourteen calendar days after the issuance of the Consummating Order, Certificate No. 5586 should be canceled and the company should also be required to immediately providing competitive local desist and If the Regulatory telecommunications services in Florida. Assessment Fees, including statutory penalty and interest charges, are not received in accordance with the Commission's Order, the collection of the past due fees should be referred to the Department of Financial Services for further collection efforts.

ISSUE 3: 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, this docket should be closed upon receipt of the payment of the penalties and fees or the cancellation of the company's certificate. (Rojas)

STAFF ANALYSIS: Whether staff's recommendations on Issues 1 and 2 are 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 penalties and fees or cancellation of the company's certificate.

Consumer Information

Business Name:

Svc Address: 2617 MARTINA AVE.

County: Osceola

Phone: (407)-931-0875

City/Zip: Kissimmee

/ 34741-

Account Number:

Call 'lame: TAMMI **JACKSON**

Mail idress: 2617 MARTINA AVE.

City KISSIMMEE ,FL 34741-

Can ached:

 $E-T_1$ 7 Number: 0006695

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

Utility Information

Company Code: TX182 Company: TEL COM PLUS

Attn. Dayna Moss522849T

Response Needed From Company? Y

Date Due: 04/07/2003 Fax: 61,727-572-1478

Interim Report Received: / /

Reply Received:

Reply Received Timely/Late:

Informal Conf.: N

PSC Information

Assigned To: CMP Entered By: LLL

Date: 03/17/2003

Time: 15:51

Via:E-FORM

Prelim Type: IMPROPER B1

PO:

0.00 Disputed Amt:

Supmntl Rpt Reg'd: Certified Letter Sent: /

Certified Letter Rec'd: / /

Closed by:

Date: / /

Closeout Type:

Apparent Rule Violatio

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

"TRACKING NUMBER - 0006695 March 16, 2003

SERVICE ADDRESS

Account Number: 82708144703740

Business Account Name: Name: Tammi Jackson

Address: 2617 Martina Ave.

City: Kissimmee,

Zip: 34741

Service Phone: 407-931-0875

R

lequest No. 522849T

JACKSON , TAMMI MS.

CUSTOMER INFORMATION Name: Tammi Jackson Address: 2617 Martina

City: Kissimmee

State: FL Zip: 34741

Primary Phone: 407-931-0875

E-mail: wanderingchic1@yahoo.com

Contact By: E-mail Address

COMPLAINT INFORMATION

Utility Name: TX182 Tel Com Plus

Did customer previously contact the utility?: I had agreed originally to go with tel com plus for the \$29 a month local service. When I had applied, I applied over the phone with them I agreed to 39.95 a month, with call waiting, caller ID, three-way, etc. there was a package. It took them almost three weeks to tur , I called and called. Finally they turn it on, but no caller ID, or three-way, or call waiting, nor it. So I call them again, they say it takes 3-5 working days for that feature to be turned on. So en, to my surprise, they had not added features, and it would cost me about 15 dollars a piece fo wai ture, instead of 10 for 10 features. I was upset, but to make matters worse, they informed me my eac 49.95 a month for my phone bill with absolutely no features. So, my intention at this point, is to bil \vdash from this company. I never recieved anything in the mail. They never sent me any billl, but every aet would get this call to pay my bill within 48 hours, or service is to be terminated. I would send we€ the ey, but never bill or anything. I had to call them almost every week to keep phone service. I am a tough custody battle in Indiana, and my son is there, I have to have phone service. I can not fic lot because of my expenses with this battle. So, I had decided to get the regular phone service f another phone company that I had used before and never had problem. My dilemna is that I save enough mone to switch service, and bam, tel com plus calls again. I called them, sent them all the money they wanted, just to keep my service. I called them march 2 spoke with Anne Medley, who was the first nice person I ha spoken with at this point. She assured me I paid the fee, my phone would be fine. She had said my next bi would be due on March 20. So, I recieved bill in mail finally, due to her switching my address on the billing computer. I also recieved another call from company advising shut-off in 48 hours again. I called them, I need to remind you, you wait on hold forever, and not to mention, half the time, I have waited over 20 minutes to speak with someone, and wham, they hand up without saying a word. I call back, someone answered, and assured my bill was ok until march 20, no surprises. Ok, so I leave for Indiana on March 6, for a court hearing, come back on March 10, and there was a call cutting off service again in the four day I was gone. Ok, so I call again, upset again at the disorganization. She said my bill was fine, to ignore all calls from computer. So I did, and my service was disconnected on the 12. I refuze to pay another dime I want to switch to Florida Telephone, and now, because of the termintation again in service, 1) I would have to pay Tel-Com Plus \$55 reconnection fee, and pay \$72 dollar phone bill (which was suppose to be 29.9

Business Name

Request No. 522849T Name JACKSON , TAMMI MS. PAGE NO:

to start.) 2) I can go to florida telephone service, and pay them 39.95 month and recieve caller ID, and call waiting, but then have to pay them connection fee, which would have been waived, had my service not been interrupted. Tel-Com Plus, the account number is 82708144703740. My name is Tammi Jackson. My swift account number is 530839497. I contacted them all the time, and I'm sorry to say, I don't have dates and times, I was always calling, and treated very unfairly. The only one I remember is Anne Medley, she was nice. This company is a scam, and very fraudulent. They waited till I sent money, then change plan, can' give me plan in my area to try to get 15 dollars each for features. Then since I won't do that, they cha me 49.95 dollars a month, but never send me bill, I asked for a copy of all payments, service plan, etc. recieved nothing but a sheet of paper telling me to send money asap, or service will be terminated, whice just talked to the woman. So I pay, I get a call a few days later, I pay, I leave for a few days, I com∈ back, I call, she said ignore, pay bill by 20th, and wham, service disconnected. I have tried to call, 1 put on hold so long, and no phone at home, need to call at work, I can't stay on phone all day. Somethir needs to be done. Thank you very much for your time, Please contact me with any info into this matter. Did customer previously contact the PSC?:

PRC INFORMATION

Pro Type: Other Complaints

it Detail: My telephone number is 407-931-0875. Although disconnected at this point. My account Cor nur

s 82708144703740. My name is Tammi Jackson. My complaint is about Tel Com Plus. I feel it is

int, and needs to be investigated."

fra

Pl: .nvestigate this issue, contact the customer and provide the Commission with a detailed written that addresses the issues in the correspondence, and confirms the customer has been contacted eith re bу

er or phone.

Inquiry taken by Loyda Lopez

CONTACT NUMBERS

CAF FAX: 850/413-7168

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

4/8/2003 Past due report sent to company. P.Lowery

4/30/2003 Certified Past Due Letter from PSC General Counsel mailed to company. P.Lowery

5/27/2003 Case reassigned to the Division of Competitive Markets and Enforcement. P.Lowery

Request No. 522849T JACKSON , TAMMI MS. Name Business Name

PAGE NO: ORIGINA

DOCKET PSC Information September Consumer Information Florida Public Service **Commission - Consumer Request** Assigned To: SHIRLEY ST Name: DAVID SAUNDERS 2540 Shumard Oak Boulevard Entered By: LLL Business Name: Tallahassee, Florida 32399 Date: 03/27/2003 850-413-6100 Svc Address: 3002 NE FITH TERRACE APT. 306 Time: 16:26 Via: E-FORM Utility Information County: Broward Phone: (954)-537-2198 Prelim Type: TELEPHONE Company Code: TX182 City/Zip: Oakland Park / 33334-PO: Company: TEL COM PLUS Attn. Dayna Moss524891T Account Number: Disputed Amt: 0.0 Call Response Needed From Company? Y iame: DAVID SAUNDERS Supmntl Rpt Req'd: Date Due: 04/17/2003 Mai: Certified Letter Sent: / / idress: 3002 NE FITH TERRACE APT. 306 Fax: 61,727-572-1478 Certified Letter Rec'd: / / Interim Report Received: / / City OAKLAND PARK ,FL 33334-Closed by: Reply Received: Can iched: Date: Reply Received Timely/Late: Closeout Type: E-Tracking Number: 0006817 Informal Conf.: N Apparent Rule Violation

Please review the "incorporated" Internet correspondence, located between the quotation marks on this form,

which the customer reports the following: "TRACKING NUMBER - 0006817 March 26, 2003

SERVICE ADDRESS

Account Number: 954-537-2198

Business Account Name: Name: David Saunders

Address: 3002 NE Fifth Terrace Apt 306

City: Fort Lauderdale

Zip: 33334

Service Phone: 954-537-2198

CUSTOMER INFORMATION

Request No. 524891T SAUNDERS , DAVID Name

Business Name

Vame: David Saunders Address: 3002 NE Fifth Terrace Apt 306 City: Fort Lauderdale State: FL Zip: 33334 Primary Phone: 954-537-2198 Secondary Phone: 954-471-2926 E-mail: david0501@att.net Contact By: E-mail Address COMPLAINT INFORMATION Utility Name: TX182 Tel Com Plus Did customer previously contact the utility?: Hello: About a month ago, I was without service for three days. I could not contact Telcom Plus as they never answered the phone. I sent a letter to them, and I was advised that "'-'r equipment failed and that I would get a credit for the down time. The credit never appeared and no or never answers the phone at this company. I am due a credit for three days service. I have a sick one moth 1 it was terrible not to have phone serivce, if something happened to her she would have been unable to c 11. David Saunders 3002 NE Fifth Terrace Apt. 306 Fort Lauderdale, FL 33334 Phone: 954-537-2198 Email: davi ı @att.net Did ner previously contact the PSC?: PROB **NFORMATION** Prob ype: Outages Comp Detail: What type of outages have you experienced? Extended

Approximate shortest time of an outage: 3 days

Approximate longest time of an outage: 3 days

Approximate number of outages in the past 30 days: 1

Approximate number of outages reported in the past 30 days: 1

Date the utility stated the outage would be repaired: 02/20/2003

Complaint Details:

I did not have telephone service for three days. I was advised Telecom Plus equipment was down and that a credit would be issued and it never was and I was promised phone service would be up and running ASAP, and

Request No. 524891T Name SAUNDERS , DAVID Business Name

never was and it is almost impossible to get anyone on the phone at this company.

David Saunders 3002 NE Fifh Terrace Apt 306 Fort Lauderdale, FL 33334 954-537-2198"

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

Inquiry taken by Loyda Lopez

CONTACT NUMBERS

CAF I 50/413-7168

CAF 1 pscreply@psc.state.fl.us

8/18 elephoned 727-572-7832 voice mailbox full. Telephoned 813-258-4651 disconnected number. Checked websi $\frac{1}{11}$ No URL. Sent e-mail to jgraton requesting contact telephone numbers. JARIOLA

8/20/ mail was undeliverable. JARIOLA

8/21/ ulled up RAF documents and Master Commission Directory documents. Paula Isler has opened a docket (0306 s this company has not paid its RAF. Referred case to Paul Lowery for possible transfer. JARIOLA

Request No. 524891T Name SAUNDERS , DAVID Business Name

PAGE NO: 3

COLCINIAL

DOCKET NO. 030618-TX DATE: September 4, 2003

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

STATE OF FLORIDA



GENERAL COUNSEL HAROLD A. MCLEAN (850) 413-6248

Attachment C

Hublic Service Commission

April 30, 2003

Tel Com Plus 5251 110th Avenue North, Suite 118 Clearwater, Florida 33760-4837

Re: Past Due Company Response to Consumer Complaints

Dear Sir:

The Florida Public Service Commission's Division of Consumer Affairs (CAF) has informed my office that Tel Com Plus has not responded to the Commission regarding specific consumer complaints. Despite numerous attempts by CAF to obtain replies to the complaints, our records show that company responses have not been received to date.

The Commission intends to see that disputes between regulated companies and their customers be resolved as quickly, effectively, and inexpensively as possible. According to PSC Rule 25-22.032(5)(a):

"... a Commission staff member will investigate the complaint and attempt to resolve the dispute in the following manner: The staff member will notify the company of the complaint and request a response. The company shall provide its response to the complaint within fifteen (15) working days. The response shall explain the company's actions in the disputed matter and the extent to which those actions were consistent with applicable statutes and regulations. The response shall also describe all attempts to resolve the customer's complaint."

I have enclosed a copy of the original complaint form(s) for which we have no response(s). If the Commission has not received a response within fifteen (15) business days of the date of this letter, Tel Com Plus is potentially at risk of being fined and/or having its certificate revoked. Please respond via fax to (850) 413-7168, or e-mail the response to PSCREPLY@psc.state.fl.us.

> Tel Com Plus Page 2 April 30, 2003

If you have any questions or need assistance, please contact Bev DeMello, Director of Consumer Affairs at (850) 413-6107 or by e-mail at bdemello@psc.state.fl.us, or Leroy Rasberry, Chief, Bureau of Complaint Resolution at (850) 413-6119, e-mail lrasber@psc.state.fl.us.

Sincerely,

Harold McLean General Counsel

Harold McLean

HM:bsd/jmb Enclosures

cc: Mary Andrews Bane, Executive Director Bev DeMello, Director, Consumer Affairs

003

Consumer Information

Name: TAMMI JACKSON

Business Name:

Svc Address: 2617 MARTINA AVE.

County: Osceola

Phone: (407)-931-0875

City/Zip: Kissimmee

/ 34741-

Account Number:

Cal Name: TAMMI JACKSON

Mai ddress: 2617 MARTINA AVE.

.

Cit o KISSIMMEE, FL 34741-

Can ached:

E-T g Number: 0006695

Florida Public Service Commission - Consumer Request 2540 Shumard Oak Boulevard

Tallahassee, Florida 32399 850-413-6100

Utility Information

Company Code: TX182
Company: TEL COM PLUS

Attn. Dayna Moss522849T

Response Needed From Company? y

Date Due: 04/07/2003

Fax: 61,727-572-1478

Interim Report Received: / /

Reply Received: / /

Reply Received Timely/Late:

Informal Conf.: N

PSC Information

Assigned To: KIWANIS CU

Entered By: LLL

Date: 03/17/2003

Time: 15:51 Via: E-FORM

Prelim Type: IMPROPER B.

PO:

R

Disputed Amt:

0.0

Supmntl Rpt Req'd: /

Certified Letter Sent: /

Certified Letter Rec'd: /

Closed by:

Date: / /

Closeout Type:

Apparent Rule Violatic

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

SERVICE ADDRESS

Account Number: 82708144703740

"TRACKING NUMBER - 0006695 March 16, 2003

Business Account Name:

Name: Tammi Jackson

Address: 2617 Martina Ave.

City: Kissimmee,

Zip: 34741

Service Phone: 407-931-0875

CUSTOMER INFORMATION

equest No. 522849T Name JACKSON , TAMMI MS. Business Name

'AGE NO:

_

Name: Tammi Jackson Address: 2617 Martina

City: Kissimmee

State: FL Zip: 34741

Primary Phone: 407-931-0875

E-mail: wanderingchicl@yahoo.com

Contact By: E-mail Address

COMPLAINT INFORMATION

Utility Name: TX182 Tel Com Plus

Did customer previously contact the utility?: I had agreed originally to go with tel com plus for the \$29.9 month local service. When I had applied, I applied over the phone with them I agreed to 39.95 a month, with call waiting, caller ID, three-way, etc. there was a package. It took them almost three weeks to turn on phone, I called and called. Finally they turn it on, but no caller ID, or three-way, or call waiting, none it. ~ call them again, they say it takes 3-5 working days for that feature to be turned on. So I wait. The my surprise, they had not added features, and it would cost me about 15 dollars a piece for each instead of 10 for 10 features. I was upset, but to make matters worse, they informed me my bill is fea 49. month for my phone bill with absolutely no features. So, my intention at this point, is to get away 3 company. I never recieved anything in the mail. They never sent me any billl, but every week, I fro ; this call to pay my bill within 48 hours, or service is to be terminated. I would send them money, wou : bill or anything. I had to call them almost every week to keep phone service. I am fighting a tough but pattle in Indiana, and my son is there, I have to have phone service. I can not afford alot because of cus ses with this battle. So, I had decided to get the regular phone service from another phone company mУ id used before and never had problem. My dilemna is that I save enough money to switch service, and tha bam, tel com plus calls again. I called them, sent them all the money they wanted, just to keep my service. called them march 2 spoke with Anne Medley, who was the first nice person I had spoken with at this point. assured me I paid the fee, my phone would be fine. She had said my next bill would be due on March 20. So, recieved bill in mail finally, due to her switching my address on the billing computer. I also recieved another call from company advising shut-off in 48 hours again. I called them, I need to remind you, you wai on hold forever, and not to mention, half the time, I have waited over 20 minutes to speak with someone, an wham, they hang up without saying a word. I call back, someone answered, and assured my bill was ok until march 20, no surprises. Ok, so I leave for Indiana on March 6, for a court hearing, come back on March 10, there was a call cutting off service again in the four days I was gone. Ok, so I call again, upset again at the disorganization. She said my bill was fine, to ignore all calls from computer. So I did, and my service was disconnected on the 12. I refuze to pay another dime. I want to switch to Florida Telephone, and now, because of the termintation again in service, 1) I would have to pay Tel-Com Plus \$55 reconnection fee, and pay \$72 dollar phone bill (which was suppose to be 29.95 to start.) 2) I can go to florida telephone servic. and pay them 39.95 month and recieve caller ID, and call waiting, but then have to pay them connection fee,

lequest No. 522849T

2

Name JACKSON , TAMMI MS.

Business Name

which would have been waived, had my service not been interrupted. Tel-Com Plus, the account number is 82708144703740. My name is Tammi Jackson. My swiftpay account number is 530839497. I contacted them all the time, and I'm sorry to say, I don't have dates and times, I was always calling, and treated very unfairly. Only one I remember is Anne Medley, she was very nice. This company is a scam, and very fraudulent. They waited till I sent money, then change plan, can't give me plan in my area to try to get 15 dollars each for features. Then since I won't do that, they charge me 49.95 dollars a month, but never send me bill, I asked for a copy of all payments, service plan, etc. I recieved nothing but a sheet of paper telling me to send money asap, or service will be terminated, which I just talked to the woman. So I pay, I get a call a few dater, I pay, I leave for a few days, I come back, I call, she said ignore, pay bill by 20th, and wham, service disconnected. I have tried to call, but put on hold so long, and no phone at home, need to call at work, I can't stay on phone all day. Something needs to be done. Thank you very much for your time, Please contact me with any info into this matter.

Did customer previously contact the PSC?:

PROBLEM INFORMATION

Prol ype: Other Complaints

Comparished Detail: My telephone number is 407-931-0875. Although disconnected at this point. My account number is { 44703740. My name is Tammi Jackson. My complaint is about Tel Com Plus. I feel it is fraudulent, ar

need | be investigated."

20

Ples vestigate this issue, contact the customer and provide the Commission with a detailed written report that esses the issues in the correspondence, and confirms the customer has been contacted either by letter or r

Inquiry taken by Loyda Lopez

CONTACT NUMBERS

CAF FAX: 850/413-7168

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

4/8/2003 Past due report sent to company. P.Lowery

4/30/2003 Certified Past Due Letter from PSC General Counsel mailed to company. P.Lowery

5/27/2003 Case reassigned to the Division of Competitive Markets and Enforcement. P.Lowery

6/2/03: Case reassigned to Kiwanis Curry.

Request No. 522849T Name JACKSON , TAMMI MS. Business Name

PAGE NO:

DOCKET NO. 03061 DATE: September	OWPLETE THIS S	also complete desired. on the reverse I to you. If the mailpiece,	A. Received by (Please Print Clearly) A. Received by (Please Print Clearly) C. Signature X	Date of Delivery S S . Agent Addressee
	Article Addressed to: Tel Com Plus 5251 110th Avenue Nor Clearwater, Florida 337		D. s delivery address different from item 1 If YES, enter delivery address below:	? ☐ Yes ☐ No
			3. Service Type Certified Mail	for Merchandise
	2. Article Number (Transfer from s 70	02 0460 00	101 1757 8813	
	PS Form 3811, March 2001	Domestic Re	eturn Receipt	102595-01-M-1424

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

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

Florida Public Service Commission
Division of Consumer Affairs
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Atten: Paul Lowery

MAY - 9 2003

DATE: September 4, 2003

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

STATE OF FLORIDA



DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT BETH W. SALAK DIRECTOR (850) 413-6600

Hublic Service Commission

June 16, 2003

CERTIFIED MAIL

Mr. Richard Pollara Tel Com Plus 5251 110th Avenue North, Suite 118 Clearwater, Fl 33760-4837

Re: Failure to Respond to Consumer Complaint

Dear Mr. Pollara:

It has been brought to the attention of the Florida Public Service Commission's Division of Competitive Markets & Enforcement that Tel Com Plus (Tel Com) has failed to respond to Commission staff regarding the enclosed consumer complaint filed by Ms. Tammi Jackson. Despite numerous attempts to obtain a response from Tel Com, our records indicate that to date, no response from the company has been received. At this time, staff asks that you investigate this complaint, contact the consumer, and provide a detailed response by June 30, 2003, that addresses the issues of the complaint and verifies that the consumer has been contacted and that her issues have been resolved. You may fax your response to Ms. Jackson's complaint to me at (850) 413-6663, or you may respond by email to kcurry@psc.state.fl.us.

If you have any questions concerning this matter, please feel free to contact me at (850) 413-6662.

Sincerely

Kiwanis L. Curry

Bureau of Service Quality

Enclosure

TMS #225

Phone: (407)-931-0875

/ 34741-

JACKSON

Address: 2617 MARTINA AVE.

:KISSIMMEE ,FL 34741-

msiress Name:

Cun' : Osceola

acomat Number:

 \sim

i by lip: Kissimmee

TAMMI JACKSON

'are 7 'dress: 2617 MARTINA AVE.

Name: TAMMI

Consumer Information

003

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

Utility Information

Company Code: TX182 Company: TEL COM PLUS

Attn. Dayna Moss522849T

Fax: 61,727-572-1478

Interim Report Received: / /

Reply Received:

Reply Received Timely/Late:

Informal Conf.: N

Response Needed From Company? Y

Date Due: 04/07/2003

PSC Information

Assigned To: CMP

Entered By: LLL

Date: 03/17/2003

Time: 15:51 Via:E-FORM

Prelim Type: IMPROPER BIL.

PO:

Disputed Amt:

Supmntl Rpt Req'd:

Certified Letter Sent: /

Certified Letter Rec'd: / /

0.00

Closed by:

Date:

Closeout Type:

Apparent Rule Violation

Page review the "incorporated" Internet correspondence, located between the quotation marks on this form • w 'ch the customer reports the following:

TRACTING NUMBER - 0006695 March 16, 2003

FRV" IE ADDRESS

commt Number: 82708144703740

_ng Number: 0006695

"siness Account Name:

eached:

ame: Tammi Jackson

ddress: 2617 Martina Ave.

ty: Kissimmee,

5p: 34741

ervice Phone: 407-931-0875

Tie: No. 522849T

JACKSON , TAMMI MS.

Business Name

· SE ·O:

د ن 🚣

CUST MEF INFORMATION Vame: Tammi Jackson Address: 2617 Martina

City: Kissimmee

Stato: FL
Zip: 34741

Primary Phone: 407-931-0875

I-mail: wanderingchic1@yahoo.com

Contact By: E-mail Address

COMPTAINT INFORMATION

Jtil ty Name: TX182 Tel Com Plus

customer previously contact the utility?: I had agreed originally to go with tel com plus for the \$29 a month local service. When I had applied, I applied over the phone with them I agreed to 39.95 a month. with call waiting, caller ID, three-way, etc. there was a package. It took them almost three weeks to tur e, I called and called. Finally they turn it on, but no caller ID, or three-way, or call waiting, it. So I call them again, they say it takes 3-5 working days for that feature to be turned on. So c ben, to my surprise, they had not added features, and it would cost me about 15 dollars a piece for Νē ature, instead of 10 for 10 features. I was upset, but to make matters worse, they informed me my 3€ 49.95 a month for my phone bill with absolutely no features. So, my intention at this point, is to ic y from this company. I never recieved anything in the mail. They never sent me any billl, but every ∃€ would get this call to pay my bill within 48 hours, or service is to be terminated. I would send may, but never bill or anything. I had to call them almost every week to keep phone service. I am Ŀł g a tough custody battle in Indiana, and my son is there, I have to have phone service. I can not ation a alot because of my expenses with this battle. So, I had decided to get the regular phone service i another phone company that I had used before and never had problem. My dilemna is that I save enough mone to saitch service, and bam, tel com plus calls again. I called them, sent them all the money they wanted just to keep my service. I called them march 2 spoke with Anne Medley, who was the first nice person I have spoken with at this point. She assured me I paid the fee, my phone would be fine. She had said my next bi would be due on March 20. So, I recieved bill in mail finally, due to her switching my address on the billing computer. I also recieved another call from company advising shut-off in 48 hours again. I called them. I need to remind you, you wait on hold forever, and not to mention, half the time, I have waited on 20 minutes to speak with someone, and wham, they hang up without saying a word. I call back, someone answered, and assured my bill was ok until march 20, no surprises. Ok, so I leave for Indiana on March 6, for a court hearing, come back on March 10, and there was a call cutting off service again in the four date I was gone. Ok, so I call again, upset again at the disorganization. She said my bill was fine, to ignore all calls from computer. So I did, and my service was disconnected on the 12. I refuze to pay another dim I want to switch to Florida Telephone, and now, because of the termintation again in service, 1) I would have to pay Tel-Com Plus \$55 reconnection fee, and pay \$72 dollar phone bill (which was suppose to be 29.

equest No. 522849T

e JACKSON , TAMMI MS.

Business Name

'AGE NO:

ORIGINAL

o start.) 2) I can go to florida telephone service, and pay them 39.95 month and recieve caller ID, and all waiting, but then have to pay them connection fee, which would have been waived, had my service not each interrupted. Tel-Com Plus, the account number is 82708144703740. My name is Tammi Jackson. My swiftpy count number is 530839497. I contacted them all the time, and I'm sorry to say, I don't have dates and dimes, I was always calling, and treated very unfairly. The only one I remember is Anne Medley, she was verice. This company is a scam, and very fraudulent. They waited till I sent money, then change plan, can't time re plan in my area to try to get 15 dollars each for features. Then since I won't do that, they charge 49.25 dollars a month, but never send me bill, I asked for a copy of all payments, service plan, etc. i endemed nothing but a sheet of paper telling me to send money asap, or service will be terminated, which wash halked to the woman. So I pay, I get a call a few days later, I pay, I leave for a few days, I come work, I call, she said ignore, pay bill by 20th, and wham, service disconnected. I have tried to call, but or hold so long, and no phone at home, need to call at work, I can't stay on phone all day. Something ends to be done. Thank you very much for your time, Please contact me with any info into this matter.

POBLET INFORMATION

Type: Other Complaints

nt Detail: My telephone number is 407-931-0875. Although disconnected at this point. My account is 82708144703740. My name is Tammi Jackson. My complaint is about Tel Com Plus. I feel it is ent, and needs to be investigated."

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

* writy taken by Loyda Lopez**

OF TAC | NUMBERS

 \sim

本下 取77: 850/413-7168

A Errail: pscreply@psc.state.fl.us

 $/ \hat{\ } \ ^{\prime} \hat{\ } \ ^{\prime}$ Past due report sent to company. P.Lowery

/2003 Certified Past Due Letter from PSC General Counsel mailed to company. P.Lowery

72.72.03 Case reassigned to the Division of Competitive Markets and Enforcement. P.Lowery

Regimes* No. 522849T Name JACKSON , TAMMI MS. Business Name

AGE MY: 3 ODICINA

H 7

1					
SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY				
 Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Received by (Please Print Clearly) B. Date of Delivery C. Signature Agent Addressee D. As delivery address different from item 1? Yes				
Mr. Richard Pollara Tel Com Plus					
5251 110 th Avenue North, Suite	∮(8): .'*				
Clearwater, FL 33760-4837					
\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \					
	Registered Return Receipt for Merchandise				
	☐ Insured Mail ☐ C.O.D.				
	4. Restricted Delivery? (Extra Fee)				
7002 0860 0001 1754 9714					
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 ●					
Ms. Kiwanis L. Curry Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850					

Attachment G

DOCKET NO. 030618-TX
DATE: September 4, 2003

A second second

SEINACE STORMAN ADDRESSE FOLLAND SHE SON SHE SHOULD SHE SON SHE SHOULD SHOULD SHE SHOULD SHOU	THIS SECTION ON DELIVERY
Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired.	A. Received by (Please Print Clearly) B. Date of Delivery
 Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mallplece, or on the front if space permits. 	C. Signature Agent
1. Article Addressed to:	D. It delivery address different from Item 1?
TX182 Tel Com Plus 5251 110th Avenue North, Suite 118	
Clearwater, FL 33760-4837	3. Service Type Certified Mall Express Mall
	Registered Return Receipt for Merchandise C.O.D.
	4. Restricted Delivery? (Extra Fee)
2. Article Number (Transfer from service label) 7002 08	360 DDD1 1755 7740
PS Form 3811, March 2001 Domestic Re	turn Receipt 102595-01-M-1424

- 27 **-**

DATE: September 4, 2003

STATE OF FLORIDA

248

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

Hublic Service Commission

April 11, 2003

Mr. Richard Pollara, President Tel Com Plus (TX182) 5251 110th Avenue North, Suite 118 Clearwater, FL 33760-4837

Deat Mr. Pellara:

The Regulatory Assessment Fee (RAF) is due by January 30th of each year for the preceding calendar year. For certificate holders, the RAF is owed even if a telecommunications company may not have started operations or had any revenues. If payment is made after the due date, then statutory penalty and interest charges are applicable.

Our records show that the 2002 RAF return notice was mailed on December 12, 2002, and a delinquent notice was mailed on February 20, 2003. As of this date, our records do not show receipt of the RAF return or payment. A copy of the 2002 RAF return form is enclosed. Our records also show that you have a small past due balance for late payment of the 2001 fee, which must be paid. A breakdown is enclosed.

If full payment, including penalty and interest charges, along with the RAF return form, are not received by April 30, 2003, a docket will be established. Your company will be fined or your certificate cancelled if you do not respond. Our records show that if a docket is established, this will be the company's second docket for the same rule violation. Please note that once a docket has been established, just paying the delinquent RAF amount will not prevent your certificate from being cancelled.

If you wish to cancel your certificate voluntarily and leave in good standing with the Commission, your company should pay the past due amount in full, complete the 2002 RAF return form, either pay the 2003 RAF or provide a date certain it will be paid, and comply with the requirements of Rule 25-24.820, Florida Administrative Code, copy enclosed. Any unpaid RAFs, including penalty and interest charges, are turned over to the Florida Department of Financial Services for further collection efforts.

If you have any questions, please contact me at (850) 413-6502, by fax at (850) 413-6503, by e-mail at pisler@psc.state.fl.us, or by writing to me at the address below.

Sincerely,

Paula J. Isler, Research Assistant Bureau of Service Quality

Davida Q. Solv

Enclosures

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
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Serbice Commission

July 3, 2003

Mr. Richard Pollara, President Tel Com Plus (TX182) 5251 110th Avenue North, Suite 118 Clearwater, FL 33760-4837

Dear Mr. Pollara:

Payment for the 2002 Regulatory Assessment Fee was due January 30, 2003. As of this date, payment has still not been received. A delinquent notice was mailed on February 21, 2003, via certified mail, which was signed for and delivered. On April 11th, I wrote you and explained that payment had not been received and enclosed a copy of the 2002 Regulatory Assessment Fee return form.

The fee is .0015% of a company's intrastate revenues, or \$50.00, whichever is greater. The fee is due even if a company never started operations or had any revenues. In addition, statutory penalty and interest charges are applicable.

Please pay the past due amount to avoid an enforcement docket from being established for violation of Rule 25-4.0161, Florida Administrative Code. Let me know if you have any questions.

Sincerely,

Paula J. Isler, Research Assistant Bureau of Service Quality

Paula J. Islen

TMS #569