

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause) DOCKET NO. 921180-TI
Proceedings Against MATRIX) ORDER NO. PSC-93-0171-FOF-TI
TELECOM for violation of Rule) ISSUED: 2/3/93
25-4.118, F.A.C., submitting)
unauthorized primary)
interexchange company (PIC))
changes for processing and)
causing an excessive number of)
customer complaints to be filed.)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER TO SHOW CAUSE WHY
A FINE SHOULD NOT BE IMPOSED

BY THE COMMISSION:

Matrix Telecom (Matrix or the Company) is a switchless reseller of the volume discounted outbound services of Sprint Communications. As a certificated provider of interexchange telephone service (Certificate No. 2495), it is subject to the rules of this Commission.

Thirty-four (34) complaints were filed against Matrix Telecom from January 15, 1992, through December 8, 1992. Each involved charges of unauthorized primary interexchange carrier changes (PIC) otherwise known as "slamming". Due to the number of complaints received, the type of complaints received, and the company's failure to reduce the number of unauthorized PIC changes, we believe that Matrix should be required to show cause why it should not have its certificate cancelled or have a fine imposed, pursuant to Section 364.285, Florida Statutes for violation of Rule 25-24.118(1), Florida Administrative Code. Rule 25-24.118(1) states in pertinent part: "The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization."

The consumer complaints filed with this Commission indicate that most consumers were slammed after being solicited by a telemarketer. Consumers reported receiving telemarketing calls and

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literature from a variety of companies marketing on behalf of Matrix.

Further, information packages were often addressed to members of the household who were not authorized to make changes to the telephone service. In one instance, the company had a letter of authorization signed by a fourteen year old child. In another case, a man conducting relief work in Miami after Hurricane Andrew struck was solicited by a representative of Matrix as he stood in line to use a pay telephone. This man had no telephone account of his own, yet Matrix caused the long distance carrier of his brother to be switched based on information the Matrix representative solicited from him.

Because most customers were switched after being contacted by telephone, Matrix has been unable to produce ballots or letters of authorization (LOAs) for the carrier changes in all but a few cases. Of the four (4) letters of authorization Matrix was able to produce, none had the company's name shown anywhere on the ballot. In addition, several of the customers were not aware that what they had signed would result in their carrier being changed because the form was presented to them as some sort of long distance discount savings coupon.

The granting of a certificate is conditional on the Commission's determination that approval is in the public interest as stated in Rule 25-24.471(3), Florida Administrative Code. Although Matrix Telecom was granted a certificate, both the number of complaints filed against Matrix Telecom and the type of complaints filed cause us to believe that it may no longer be in the public interest for Matrix to hold a certificate and that there may be appropriate cause to cancel the certificate or fine the company or both.

Rule 25-24.474(1), states in pertinent part:

The Commission may on its own motion cancel a company's certificate for any of the following reasons:

- (a) Violation of the terms and conditions under which the authority was originally granted;
- (b) Violation of Commission Rules and Orders;
- (c) Violation of Florida Statutes; or
- (d) Failure to provide service for a period of six (6) months.

We believe that the excessive number of complaints filed is evidence that Matrix has violated Commission Rule 25-24.118, which

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is sufficient cause for cancellation in accordance with Rule 24-24.474(1).

Matrix Telecom's failure to take steps to reduce the number of unauthorized carrier changes has contributed to the high number of complaints filed. We believe the company should have procedures in place to prevent unauthorized carrier changes and that its failure to do so is cause for this Commission to issue an order for the company to show cause why its certificate should not be cancelled or a fine imposed.

Matrix's certificate became effective February 6, 1991. Three complaints were filed against the company in 1991. All three complaints concerned slamming. The first complaint filed against the company in 1992 was received January 15th and the most recent was filed December 8th. Additionally, the number of complaints filed against Matrix appears to be increasing.

Accordingly, for the foregoing reasons, we believe Matrix should be required to show cause why it should not have its certificate cancelled or have a fine imposed, pursuant to Section 364.285 for violation of Rule 25-24.118(1).

Therefore, based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Matrix Telecom shall show cause in writing why the Company should not be fined or have its certificate cancelled for the violations set forth herein. It is further

ORDERED that any response to this Order shall be filed pursuant to the requirements set forth below. It is further

ORDERED that failure to respond within the time period set forth below shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and shall constitute a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such a default shall be effective on the day subsequent to the date set forth below. It is further

ORDERED that, in the event of default, Matrix Telecom's certificate of public convenience and necessity is heretofore cancelled. It is further

ORDERED that, in the event of default, this docket shall be closed administratively; otherwise, this docket shall remain open pending resolution of the show cause process.

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By ORDER of the Florida Public Service Commission, this 3rd
day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 23, 1993.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.