

Talbott  
Vandiver

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**

March 7, 1996

**TO:** DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)  
**FROM:** DIVISION OF COMMUNICATIONS (K. LEWIS) *KL*  
DIVISION OF LEGAL SERVICES (BILLMEIER) *LB*  
**RE:** DOCKET NO. 960217-TI - TELECUBA - INITIATION OF SHOW  
CAUSE PROCEEDINGS FOR VIOLATION OF RULE 25-24.470,  
F.A.C., CERTIFICATION OF PUBLIC CONVENIENCE AND NECESSITY  
REQUIRED.

DOCKET NO. 960216-TI - WORLD ACCESS COMMUNICATIONS CORP.  
- INITIATION OF SHOW CAUSE PROCEEDINGS FOR VIOLATION OF  
RULE 25-24.4701, F.A.C., PROVISION OF REGULATED  
TELECOMMUNICATIONS SERVICES TO UNCERTIFICATED RESELLERS  
PROHIBITED.

**AGENDA:** 03/19/96 - REGULAR AGENDA -  
INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** NONE

**SPECIAL INSTRUCTIONS:** I:\PSC\CMU\WP\960217.RCM

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**CASE BACKGROUND**

Telecuba, Inc. (Telecuba) has been a Florida Corporation since March 15, 1995. The sole office holder and shareholder of the corporation at the time of incorporation was Luis Coello, according to the Articles of Incorporation filed with the Florida Department of State.

Telecuba is or was a provider of debit card services. Prepaid debit cards have become quite prevalent over the past year. They are used in promotional giveaways at shopping malls and other businesses, purchased by parents for their children who are college students, used by people who are transient and may not subscribe to telephone service, and also by persons who simply wish to prepay for service as a way of budgeting their long distance usage.

DOCUMENT NUMBER-DATE

02816 MAR-78

FPSC-RECORDS/REPORTING

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Telecuba provided this service by purchasing long distance services from World Access Communications Corporation, a certified carrier, and reselling the service to end user customers who purchased a debit card which could be used to access an 800 number to place telephone calls. The debit cards were sold by Telecuba or its agents and purchased by the end user customers for a flat fee for a certain amount of minutes of use. For example, a customer might purchase a debit card for \$10 and it would be stated on the card that it could be used for 40 minutes of long distance service by calling an 800 number listed on the back of the card to gain access to the long distance operator or automated operator.

In early December, Mr. Luis Coello of Telecuba contacted Staff several times by telephone regarding his complaint that World Access had disconnected the 800 access numbers Telecuba was using to provide its prepaid calling service. Telecuba was not able to get World Access to reconnect the numbers, nor was Telecuba able to get AT&T to reassign the numbers to Telecuba. As a result, end users who had purchased debit cards were not able to complete telephone calls and receive the telephone service for which they had already paid. On December 15, 1995, Staff received a letter from Telecuba detailing this problem (Attachment A).

The company Telecuba had purchased its long distance service from, World Access Communications Corporation, was issued an interexchange carrier certificate (No. 2385) in 1989. One of the services provided by World Access is reselling long distance services to other communications companies, and the general public. This is done by purchasing long distance service at wholesale per minute rates from companies such as AT&T and reselling it to other companies (such as Telecuba) that would otherwise be unable to obtain such discounts from a major provider.

On December 21, 1995, Staff contacted AT&T seeking additional information regarding the accounts of Telecuba and World Access. After reviewing available information, Staff faxed a brief message on January 2, 1996, to World Access Corporation, asking that it release the 800 numbers to Telecuba so that customers could receive service. On January 2, 1996, Staff received notice that World Access had retained a law firm to represent it in this matter. On January 11, 1996, the law firm provided additional information in response to Telecuba's complaint to the Commission (Attachment B). Finally, on January 19, 1996, the law firm provided a copy of a Verified Complaint it filed on January 12, 1996, in the Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida, Case No. 96-00828.

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The parties have been unable to resolve this matter between themselves and customers who have purchased debit cards are unable to use them to obtain telephone service they have already paid for. Staff files this recommendation in order to address apparent rules violations by each company, recommend appropriate penalties, and obtain a remedy for the end user customers who are unable to use the services for which they have already paid.

#### DISCUSSION OF ISSUES

**ISSUE 1:** Should Telecuba be ordered to show cause why it should not be fined for operating without a certificate in violation of Rule 25-24.470, Florida Administrative Code?

**RECOMMENDATION:** Yes, Telecuba should be ordered to show cause why it should not be fined for operating without a certificate in violation of Rule 25-24.470, Florida Administrative Code.

**STAFF ANALYSIS:** As Staff attempted to resolve the dispute between Telecuba and World Access, we learned that Telecuba had been reselling long distance service to end users without a certificate. Although many entities such as Eckerds Drug Stores and Target Department Stores sell debit cards, these companies are different from a company like Telecuba. The difference is that companies such as Eckerds purchase the cards for resale, they do not purchase minutes of use from a long distance company.

Telecuba purchased minutes of use from World Access, manufactured and encoded cards with a PIN number and then sold them to end users either directly or through retailers. Staff has copies of call detail records that show calls were completed within Florida. Consequently, in staff's opinion, Telecuba was acting as a telecommunications provider in violation of the following rule.

25-24.470 Certificate of Public Convenience and Necessity Required.

(1) No person shall provide intrastate interexchange telephone service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may deposits or payment for services be collected until the effective date of

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a certificate, if granted. However, acquisition of equipment and facilities, advertising and other promotional activities may begin prior to the effective date of the certificate at the applicant's risk that it may not be granted. In any customer contacts or advertisements prior to certification, the applicant must advise the customer that certification has not and may never be granted.

Fines imposed and penalties paid for similar violations have ranged from \$250 to \$40,000. Staff notified Telecuba that it should apply for certification via letter dated December 20, 1995 (Attachment D). Staff asked that the company return the completed application and application fee by January 2, 1996. To date, the company has not applied for certification although it has indicated that it intends to do so under another name, World Long Distance.

**ISSUE 2:** Should Telecuba be ordered to show cause why it should not make refunds to customers for each debit card sold equal to the amount of purchase or equal to unused long distance service and run a notice in local media in the area where the cards were sold stating how refunds may be obtained?

**RECOMMENDATION:** Yes, Telecuba should be ordered to show cause why it should not make refunds to customers for each debit card sold equal to the amount of purchase or equal to unused long distance service and run a notice in local media in the area where the cards were sold stating how refunds may be obtained.

**STAFF ANALYSIS:** According to Telecuba's own letters and conversations with staff, the debit cards it sold no longer work as the 800 number is either not in service or has been blocked due to Telecuba's dispute with World Access. Telecuba contacted AT&T and requested that AT&T take the number away from World Access and give it to Telecuba. However, AT&T advised Telecuba that the numbers belonged to World Access and that Telecuba apparently had a private dispute with World Access in which AT&T was not involved.

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Furthermore, according to the Verified Complaint filed in the Circuit Court of the Eleventh Judicial Circuit, in and for Dade County, Florida, Case No. 96-00828(23), by World Access, Telecuba continued to sell debit cards even after it knew that they no longer worked. Page 7 of the Verified Complaint, states in pertinent part: "Amazingly, Telecuba continued to sell debit cards to the public even after it knew the 1-800 number printed on the card was useless."

In response to a staff data request, Telecuba denied selling phone cards after it knew that it had no way of providing end-users with long distance service. Telecuba provided a copy of a letter it said it mailed to over 750 distributors asking them to temporarily suspend the sale of the calling cards.

In order to make the end users whole, Telecuba should make refunds to any customers that can be identified. No records are kept as to what individual purchases a particular card since the cards are meant to be used by anyone that has possession of it, based on the PIN number on the back of the card. Since the cards and PIN numbers are not registered to a particular person, the problem of identifying those customers due a refund must be resolved.

Telecuba should be ordered to run a notice in local media in the area where the cards were sold stating how refunds may be obtained. The notice should state that any customer who returns a debit card with minutes of use remaining, will receive a refund equal to the remaining value. If remaining minutes of use cannot be determined for each card, then the notice should state that the purchase price of the card will be refunded to any customer that turns in a card.

At this writing, staff does not know how many cards Telecuba has sold. This refund method would ensure that at least some of the persons who purchased the cards will get full refunds. One drawback is that it is doubtful that everyone who purchased a card will see the notice and so they will not have the opportunity to seek a refund. No doubt some persons who purchased the cards and found they did not work have already discarded them.

Persons who purchased cards prior to the date the 800 number was disconnected were able to use them, but because Telecuba does not have complete call detail records, it does not know how much time, if any, is remaining on those cards. Telecuba has stated that it will not be able to determine if customers have used the full amount of long distance service they purchased without complete call detail records showing the PIN numbers. Staff does

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not have much empathy for this concern, as Telecuba could have foreseen this problem and made sufficient business contracts to ensure that it would have the necessary call detail records. However, staff has attempted to address this concern in Issue 4.

Telecuba has had ample time to develop a plan for refunding customers who have been unable to use the debit cards, however, it has not done so. Therefore, staff believes that the Commission should order the company to show cause why it should not make refunds to any and all customers equal to the amount of purchase or equal to the amount of unused long distance service of each debit card sold.

**ISSUE 3:** Should Telecuba be ordered to show cause why it should not pay any refund monies not refunded directly to customers under the terms of Issue 2 to the Florida Public Service Commission, with said monies to be forwarded to the Office of the State Treasurer for deposit in the General Revenue Fund?

**RECOMMENDATION:** Yes, Telecuba should be ordered to show cause why it should not pay any refund monies not refunded directly to customers under the terms of Issue 2 to the Florida Public Service Commission, with said monies to be forwarded to the Office of the State Treasurer for deposit in the General Revenue Fund.

**STAFF ANALYSIS:** As described in the staff analysis of issue 2, it is unlikely that all persons who purchased cards will seek refunds and Telecuba has no way of knowing the identity of each person who purchased a card. Therefore, there may be monies remaining that are unable to be refunded to the customer. Telecuba will be able to determine the amount of monies remaining to be refunded if World Access provides the company with the necessary data to compare the monetary value of the remaining minutes of use on each card (PIN number) with the amount of money already refunded (see issue 4). If there are any remaining monies that qualify for refunds which are not refunded under the terms of issue 2, then those monies should be paid to the Florida Public Service Commission, with said monies to be forwarded to the Office of the State Treasurer for deposit in the General Revenue Fund. Staff recommends that Telecuba be ordered to show cause why it should not refund any monies that qualify for refunds but which are not refunded under the terms of issue 2.

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**ISSUE 4:** Should World Access be ordered to show cause why it should not provide sufficient call detail records to Telecuba to allow the company to determine the long distance service that has been used by specific PIN numbers?

**RECOMMENDATION:** Yes, World Access be ordered to show cause why it should not provide sufficient call detail records to Telecuba to allow the company to determine the long distance service that has been used by specific PIN numbers?

**STAFF ANALYSIS:** If the Commission orders Telecuba to make refunds as described in Issues 2 and 3, then the company will need some way to determine how many minutes of use remain on each card. World Access should be ordered to provide this information since it will enable Telecuba to effectuate accurate consumer refunds. Staff has questioned World Access's legal counsel regarding the provision of this information, however, to date, no response has been received.

**ISSUE 5:** Should World Access be ordered to show cause why it should not be fined or have its certificate cancelled for providing telecommunications services to uncertificated resellers in violation of Rule 24-24.4701, Florida Administrative Code?

**RECOMMENDATION:** Yes, World Access should be ordered to show cause why it should not be fined or have its certificate cancelled for providing telecommunications services to uncertificated resellers in violation of Rule 24-24.4701, Florida Administrative Code.

**STAFF ANALYSIS:** World Access has admitted that it sold minutes of use to Telecuba. In its Verified Complaint filed in the Circuit Court of the Eleventh Judicial Circuit, in and for Dade County, Florida, Case No. 96-00828(23), World Access states the following: "When the user utilized the card to place long distance telephone service (through World Access' network), World Access would calculate the minutes in its computer system and was supposed to bill Telecuba accordingly." The Verified Complaint also states on page 18 that the defendants (Telecuba) breached its agreements with World Access by "...refusing and failing to pay Plaintiff for invoices with respect to the networking services provided to Defendants;..."

As a certified long distance carrier since 1989, World Access knew or should have known that the Commission rules prohibit the provision of telecommunications services to uncertificated resellers as stated below.

25-24.4701 Provision of Regulated Telecommunications Service to Uncertificated Resellers Prohibited.

(1) Each certificated interexchange company shall, within the general section of its intrastate tariff, or in the sections applicable to services that it expects may be resold or rebilled, include language which states that customers reselling or rebilling such services must have a Certificate of Public Convenience and Necessity as an interexchange carrier from the Florida Public Service Commission.

(2) Each certificated interexchange company shall implement procedures to identify and report those customers whom it believes are reselling or rebilling interexchange telecommunications service on an intrastate basis in Florida. Each certificated interexchange company shall, within thirty days of a written request by the Commission staff, submit a complete list of such customers' names and addresses to the Commission.

(3) The Commission, upon making a determination that a customer of an interexchange company is unlawfully reselling or rebilling intrastate interexchange service may issue an order that directs the customer to cease and desist reselling or rebilling such service and simultaneously directs the interexchange company to discontinue providing such service to such customer and/or to cease providing service to such customer at additional locations within Florida, provided that such discontinuance or limitation of service is technically feasible within the context of existing facilities and technology.

There is no need for the Commission to order World Access to cease and desist reselling service to Telecuba as the company has already done so. However, World Access did not cease reselling its services to Telecuba because Telecuba did not have a certificate but because Telecuba failed to pay World Access for those services. Staff believes World Access should be fined for this apparent violation. In the past, the Commission has simply ordered the company to cease reselling the service and no fine was



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imposed. However, staff believes a fine is appropriate as the reselling of its services to an uncertificated telecommunications provider contributed to many customers being defrauded by purchasing debit cards which could not be used.

World Access was show caused by this Commission in 1990 under its former name, Telecommunications Services, Inc. for failure to file an annual report by the due date (Docket No. 900266-TI). The company paid a \$1,000 fine and the docket was closed.

**ISSUE 6:** Should these dockets be closed?

**RECOMMENDATION:** No, these dockets should remain open pending resolution of the show cause process.

**STAFF ANALYSIS:** If the Commission approves the staff recommendation on Issues 2 through 5, separate orders to show cause will be issued to each company. The companies must each respond, in writing, to the allegations set forth in the show cause order within 21 days of the issuance of the order. Each response must contain specific allegations of facts and law.

If either company fails to respond to the order, such failure shall be deemed an admission of all facts contained in the show cause order pursuant to Rule 25-22.037(3), Florida Administrative Code and a waiver of its right to a hearing. Whether or not either company files a response, staff will file a new recommendation on how to proceed in these dockets after the time period for filing a response has expired.



LA TARJETA QUE LE AHORRA EN SUS ~~1995~~ ~~DEC 15~~ ~~TELECUBA~~ 9:57

Via Fed Ex.

MAIL ROOM

December 14, 1995

Mr. Rick Moses  
State of Florida  
Public Service Commission  
2540 Chambered Oak Blvd.  
Tallahassee, Florida  
32399-0867



**RE: Disconnection of Calling Card service by World Access Communications, Corp., and TSI; to Telecuba, Inc. and Cellular Access Communications, Inc., without notice.**

Dear Mr. Moses;

It has been a pleasure speaking with you over the past several days.

For your kind information, I am enclosing copies of the Esquenazi-TSI-World Access-letters 12/8 and 12/11, AT&T letters of 11/20, 11/30, 12/6, and 12/11 and false contract, and FCC letters of 12/11. You can clearly see that we have been trying to get old service back on or 800 numbers rerouted, along with records, so our consumers can have their prepaid service immediately and lose absolutely nothing.

The Esquenazi organization, after your discussion with them; did deliver discs with purported call records. However the information was too sparse to determine what time the customers have remaining in their cards (sample attached), the prices shown on bills are at RETAIL not our costs as by our pricing agreement(attached); and even if you add up all amounts billed which are almost DOUBLE what it should be (and no fraud credits due); the total for the six months billed (parts attached) is \$150,394.68; remember \$90,000.00 was paid also and not shown by Esquenazi.

If they reconnect, since they did not give 5 day notice for Telecuba, Inc. and no notice for Cellular Access; this would solve the problem of the consumers. Another way is to transfer the three 800's, give us real call records; and then our firm could provide service immediately through another carrier.

Either way all we want is to get consumers back on line.

Sincerely,

  
Luis G. Coello, President

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January 11, 1996

SSA C

Schantz  
Schatzman  
Aaronson  
& Cahan, P.A.

**SENT VIA FACSIMILE  
TRANSMISSION: (904) 413-6583  
and U.S. MAIL**

Rick Moses  
Public Service Commission  
2540 Shumard Oak Blvd.  
Gunter Building  
Capital Circle Office Center  
Tallahassee, FL 32399-0850

Re: World Access

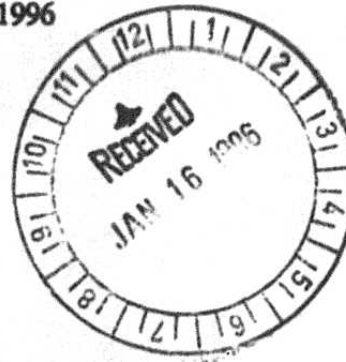
Dear Mr. Moses:

As you know, the undersigned law firm was recently retained in connection with responding to your request for information and for purposes of instituting litigation against Telecuba. As I promised last week, I am sending to you a Complaint that will be filed against Telecuba, Mr. Coello and other defendants. When you receive it under separate cover, I would specifically direct your attention to paragraphs 20, *et seq.* relating to the 800 number issue. Just as further highlights, you should be aware of the following. In or about January, 1995, TSI asked AT&T to set aside several 1-800 numbers for its exclusive use. Subsequently, World Access was entering into agreements with Telecuba, of whom Mr. Coello was made a principal, whereby World Access was supposed to be a 50% shareholder of Telecuba and another corporate entity by the name of Cellular Access. Part of the project that was contemplated was that Telecuba would market debit cards to the public and utilize World Access as its service bureau. The 800 number assigned on the debit card was one of the 800 numbers that TSI had obtained from AT&T.

We are advised that the account holder of the 800 number was and continues to be TSI. Indeed, after the above frauds came to light, and Telecuba refused to pay for the phone services utilized through World Access, World Access shut down the network and advised Mr. Coello of the shut down. Mr. Coello replied that he did not care that it was shut down. Amazingly, Telecuba continued to sell debit cards to the public even after it knew the 1-800 number printed on the card was useless. This constitutes a fraud on the public.

In addition, we understand that Mr. Coello attempted to defame World Access by contacting AT&T and accusing World Access of having defrauded Telecuba. It is instructive to note that upon request, Mr. Coello advised AT&T that although he wanted ownership of the 800 number, he would take no responsibility for paying the bills for the 800 number as that responsibility was TSI and/or World Access. It is no wonder that AT&T agreed that the 800 number had been assigned to TSI and that it would remain that way and it has never belonged to Telecuba in AT&T's records.

As the Complaint makes clear, Telecuba by and through its principals and its principals have engaged in a pattern of fraud on the public and on World Access and TSI. It would be sad if your division in any way assisted them in perpetrating this fraud on the public. We know and understand that you would not knowingly do so and that is why we share this information with



Rick Moses  
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you. In addition, please note the allegations of the Complaint dealing with Mr. Coello's prior background and the operating of the business without proper licenses. Indeed, upon information and belief, Telecuba is being operated without licensing. We would further request that you do a full background check on Mr. Coello as we believe that you would find other events in his background which would assist you immeasurably in determining his credibility and his "rights" to the 800 number.

Please feel free to contact me with any questions, comments, or request for additional information. We are continuing to accumulate information and we would be more than willing to share such information with you if the need arises. Feel free to contact me and I will be happy to discuss this with you at greater length.

Sincerely,

**SCHANTZ, SCHATZMAN,  
AARONSON & CAHAN, P.A.**

*Alan Dagen*

**ALAN P. DAGEN, ESQ.**

APD:ls

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