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FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

RECEIVED

MEMORANDUM

December 4, 1997

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FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (PELLEGRINI)
DIVISION OF COMMUNICATIONS (BIEGALSKI)
DIVISION OF CONSUMER AFFAIRS (DURBIN)

RE: DOCKET NO. 970097-TI - INITIATION OF SHOW CAUSE
PROCEEDING AGAINST INTEGRATED TELESERVICES, INC., FOR
VIOLATION OF RULE 25-24.490, FLORIDA ADMINISTRATIVE CODE,
CUSTOMER RELATIONS; RULES INCORPORATED, AND RULE 25-
4.043, FLORIDA ADMINISTRATIVE CODE, RESPONSE TO
COMMISSION STAFF INQUIRIES

AGENDA: 12/16/97 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\970097TI.RCM

CASE BACKGROUND

Integrated TeleServices, Inc. (ITS), certificate number 4420, is a provider of interexchange telecommunications service and was certificated on May 29, 1996. Between June 13, 1996 and March 12, 1997, Consumer Affairs staff received 268 complaints against ITS for apparent unauthorized carrier changes (slamming).

On May 5, 1997, the Commission issued Order No. PSC-97-0512-FOF-TI ordering ITS to show cause why it should not be fined \$75,000 for apparent violations of Rule 25-24.490, Florida Administrative Code, Customer Relations; Rules Incorporated, and \$25,000 for apparent violations of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Since the order was issued, staff has been working with the company negotiating a settlement. On November 25, 1997, ITS filed its proposed settlement offer (Attachment A, Page 5). This is staff's recommendation to accept the proposed settlement offer.

DOCUMENT NUMBER-DATE

12409 DEC-45

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept ITS' proposed settlement offer and cancel certificate number 4420 in lieu of a fine as resolution of the apparent violations of Rule 25-24.490, Florida Administrative Code, Customer Relations; Rules Incorporated, and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries?

RECOMMENDATION: Yes. The Commission should accept ITS's proposed settlement offer and cancel certificate 4420 in lieu of a fine. (Biegalski)

STAFF ANALYSIS: The Division of Consumer Affairs received a total of 268 complaints against ITS from June 13, 1996 until March 12, 1997. As of January 31, 1997, a total of 191 complaints concerning unauthorized carrier charges (slamming) have been closed by the Division of Consumer Affairs as rule infractions. In the majority of the cases the customers complained that the ITS telemarketers were misleading.

As noted in the Case Background, in Order No. PSC-97-0512-FOF-TI, the Commission required ITS to show cause why it should not be fined or have its certificate canceled for apparent violations of Rule 25-24.490, Florida Administrative Code, and Rule 25-4.043, Florida Administrative Code. On May 27, 1997, ITS filed its response to the Commission's show cause order and requested a hearing pursuant to Section 120.57, Florida Statutes.

As the outcome of several discussions between staff and ITS counsel, the company decided to surrender its certificate rather than submit to a fine it determined it could not absorb based on its business volume in Florida. Accordingly, the company proposed a settlement that can be summarized as follows:

- ITS will surrender its certificate for cancellation within 60 days of the Commission's order.
- ITS will take appropriate steps to resolve any outstanding customer complaints, as well as any future complaints that may arise.
- ITS will take appropriate steps to ensure existing customers in Florida are not inconvenienced by its withdrawal from the state.
- ITS will not reapply for certification to provide intrastate telecommunications service of any kind prior to January 1, 2001.
- ITS, its management, nor its principals will enter or seek to enter in any other way the Florida

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intrastate telecommunications market before January 1, 2003.

Staff believes ITS' proposed settlement offer is reasonable and recommends that the Commission accept it, thereby canceling certificate 4420.

ISSUE 2: Should the Commission order all certificated interexchange companies (IXCs) to discontinue providing interexchange telecommunications service to ITS pursuant to Rule 25-24.4701(3), Florida Administrative Code, if certificate number 4420 is canceled?

RECOMMENDATION: Yes. Pursuant to Rule 25-24.4701(3), Florida Administrative Code, the Commission should order all certificated interexchange companies to discontinue providing interexchange telecommunications service to ITS if ITS' certificate is canceled as the result of the Commission's action in Issue 1. (Biegalski)

STAFF ANALYSIS: Rule 25-24.4701(3), Florida Administrative Code, states in part:

(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.

If ITS' certificate is canceled as the result of the Commission's acceptance of the company's settlement offer in Issue 1, any intrastate interexchange service offered by ITS would be in violation of Rule 25-24.4701(3), Florida Administrative Code. Since the Commission cannot readily identify which IXC provides service to ITS, the Commission should order all certificated IXCs to discontinue service to ITS if the Commission votes to accept the company's settlement offer in Issue 1.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes. This docket should be closed with the approval of Issue 1 and the cancellation of certificate number 4420 within 60 days of the issuance of the Order. (Pellegrini)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, upon cancellation of ITS' certificate, this docket may be closed.

ATTACHMENT A
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WIGGINS & VILLAGORTA, P.A.

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November 25, 1997

Mr. Charles Pellegrini
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 970097-TI Proceedings against Integrated
TeleServices, Inc. for violation of Rule 25-4.118, F.A.C.,
Interexchange Carrier Selection.

Dear Mr. Pellegrini:

The purpose of this letter is to propose a settlement of the above show cause proceeding against Integrated TeleServices, Inc. As such, this communication is privileged and confidential,¹ and nothing herein may be viewed as an admission against interest or in any way used against Respondent if this dispute is not settled. As you are aware, this settlement proposal is the culmination of several discussions with staff and modifications to two earlier written proposals. For ease of reference, I am simply recasting the original proposal as modified as the result of our negotiations.

INTRODUCTION

The Show Cause Order alleges two basic violations by Respondent, slammng and failure to timely respond to staff inquiries, and further alleges that, taken together, these violations warrant fines of \$75,000 and \$25,000.

Given the magnitude of the potential fines and the limited scope of Integrated's Florida operations, Integrated reluctantly has come to the conclusion that it must surrender its certificate rather than bear the cost of litigating the issues in dispute or

¹ Respondent is not claiming protection from disclosure under the Public Records law, but rather protection against use of this communication against it if this matter cannot be settled.

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settle this matter by making a payment consistent with the Commission's emerging policy on fines. Based on intrastate revenues for the first quarter of 1997,¹ Integrated's annual intrastate revenues (not profits) would be far less than amounts projected to resolve this matter to the Commission's satisfaction without surrender of the certificate.

BACKGROUND

Integrated began operations in 1992 and for four years had an enviable record; it never had experienced a consumer complaint of any kind. Then in February of 1996, Integrated made its first foray into telemarketing of its services, which led to the complaints that resulted in this docket being opened and the show cause order being issued. Although the telemarketing program was troubled and resulted in many customer complaints, Integrated believes that time will prove that this was an aberrational experience and that Integrated is a company committed to ethical marketing, full regulatory compliance, and total customer satisfaction.

As context for this settlement offer, it might be useful to recount briefly Integrated's telemarketing experience. In January 1996, Integrated acquired a "partition" of another company's "switchless resale" arrangement with AT&T. To market this resale capacity, Integrated purchased a telemarketing firm with experience in long distance sales. In addition, Integrated opted to use scripts suggested by its provider, and, of course, to use a third party verifier to confirm sales. At this point Integrated was comfortable that it would have no problem with slamming because of the experience of its telemarketer, the underlying provider, and the verifier.

Nevertheless, based on the complaints of numerous consumers, the script was misleading and the third party verification was inadequate. Although the telemarketing began in February of 1996, Integrated did not receive its first complaint until June. Thus, by the time Integrated recognized the problem, there were already a high volume of complaints. Integrated's remedial efforts over the next several months included the following: modifications of the script; improvements to the welcome package sent new customers; terminating and replacing the verification company; re-polling all unconverted customers to confirm their choice and cancelling all conversion orders for those not confirmed; expanding Integrated's service center to handle the complaints and regulatory inquiries;

¹ Integrated's intrastate revenues for March of 1997 were only \$6,059.95.

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and ultimately terminating telemarketing.

Unfortunately, during these months other problems arose that further inconvenienced consumers and undermined Integrated's remedial efforts. These problems included, for example, the following:

- 1) Bills for April and May 1996 went out with an incorrect address and service telephone number for Integrated. The bills, which were issued by ACUS, contained an address and telephone number of the former "partition holder" (now defunct) that resided in Oakbrook Illinois. Customers who attempted to contact Integrated at the address or service number could not, and they were justifiably angry and frustrated. Also, during April and May the 800 service number of Integrated's wholesaler did not function properly. Consumers were unable to obtain assistance through that number either.
- 2) As noted above, Integrated's call verification company did not perform adequately.
- 3) Provisioning was so slow that complaints were received by consumers who had forgotten their decision to transfer service.
- 4) Certain remedial efforts by Integrated were frustrated by the wholesaler's failure to provide an accurate database to Integrated.
- 5) The system of Integrated's wholesaler apparently spontaneously "reinstated" certain canceled accounts, leading to further consumer complaints.

In sum, Integrated made a mistake in the design and implementation of its first telemarketing venture, and this mistake inconvenienced customers. Because Integrated took pride in being a low cost, value added provider and because it had never experienced customer complaints before, it was stunned by the problems it faced. Thus Integrated attempted to respond in good faith to limit the damage both to consumers and to its reputation, but at the same time certain developments beyond its control were exacerbating the situation.

The exacerbating circumstances are not mentioned to excuse Integrated from its responsibilities in this matter. On the contrary, Integrated accepts full responsibility for all regulatory problems that arose as a consequence of its telemarketing program. Nevertheless, it is important for the Commission to understand that

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the scope of the problems addressed in this proceeding was not due to indifference or, worse, a designed to add customers through unscrupulous marketing. Integrated's reputation and level of service to its customers has always been a source of pride to the people who work there and this has been a disheartening experience for them.

PROPOSED RESOLUTION

In light of the above, Integrated proposes the following resolution to this dispute:

- 1) Integrated will surrender its certificate for cancellation. I suggest that the Commission issue a final order approving the settlement provided for cancellation of the certificate within 60 days.
- 2) Integrated will take appropriate steps to insure that its existing intrastate customers are not inconvenienced by Integrated's withdrawal from the Florida market.
- 3) If any consumer inquires concerning Integrated remain open, Integrated will insure that staff has sufficient information to close them. In addition, if the Commission receives consumer inquiries about Integrated in the future, Integrated will respond fully as if it were still certificated in Florida.
- 4) Integrated will not reapply for a certificate of public convenience and necessity to provide intrastate telecommunications service of any kind before January 1, 2001. Moreover, neither Integrated, its management, nor its principals will enter or seek to enter in any other way the Florida intrastate telecommunications market over which the Florida Public Service Commission has jurisdiction before January 1, 2003.

Integrated regrets the problems caused for consumers by its telemarketing program. Integrated also regrets problems caused staff by delayed responses to staff inquiries. The decision to surrender its certificate is not something Integrated takes lightly, and is made in reaffirmance of Integrated's ultimate commitment to full compliance with all applicable Commission regulations. Thus, we are hopeful that staff and the Commission will find this good faith offer of settlement acceptable and in the public interest.

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Please contact me if any additional information is required.

Sincerely,


Patrick K. Wiggins