

WR
R

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-

RECEIVED
FEB 11 1999
PSC

DATE: 2/4/99

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

FROM: DIVISION OF LEGAL SERVICES (COX) *WPC*
DIVISION OF COMMUNICATIONS (MCCOY) *MCB* *JM* *TD*

RE: DOCKET NO. 981798-TC - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST TELALEASING ENTERPRISES, INC. FOR VIOLATION OF RULES 25-24.515, F.A.C., PAY TELEPHONE SERVICE, AND 25-4.0161, F.A.C., REGULATORY ASSESSMENT FEES; TELECOMMUNICATIONS COMPANIES.

AGENDA: 2/16/99 - REGULAR AGENDA - ISSUE 1 SHOW CAUSE-ISSUE 2 PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981798.RCM

CASE BACKGROUND

- Telaleasing Enterprises, Inc. (Telaleasing) is a provider of pay telephone service, certificate number 2358, and was certified September 12, 1989. Telaleasing owns and operates approximately 7240 pay telephones in Florida. Telaleasing reported gross operating revenues of \$7,313,237.18 and gross intrastate revenues of \$4,812,743.52 on its Regulatory Assessment Fee Return for the period January 1, 1997, through December 31, 1997. As a provider of pay telephone service in Florida, Telaleasing is subject to the rules and regulations of the Commission.
- Telaleasing is also certificated to provide interexchange and alternative local exchange services. The Interexchange certificate no. 2977 was granted July 10, 1992, and the Alternative local exchange certificate no. 4755 was granted December 12, 1996.

DOCUMENT NUMBER-DATE

01445 FEB-4 99

FPSC-RECORDS/REPORTING

- Telaleasing has had two prior show cause actions against its pay telephone certificate, and one show cause and one overcharge action against its interexchange certificate.
- On October 10, 1991, by Order 25184, in Docket No. 910788-TC, in a pay telephone issue, the Commission ordered Telaleasing to show cause why it should not be fined \$5000 for violation of pay telephone handicapped access rules and failure to respond to Commission staff inquiries. By Order PSC-92-0219-FOF-TC, in Docket No. 910788-TC, issued April 17, 1992, the Commission accepted Telaleasing's offer to correct the handicapped access violations and suspended the fine if no further violations were found during the next six months. By Order No. PSC-92-1007-FOF-TC, in Docket No. 910788-TC issued September 21, 1992, the Commission found Telaleasing had pay telephones that did not comply with the handicapped access standards and ordered Telaleasing to pay a \$5,000 fine. The docket was closed when Telaleasing paid the fine.
- On March 8, 1994, by Order PSC-94-0263-FOF-TI, in Docket No. 931238-TI, in an interexchange issue, the Commission ordered Telaleasing to refund \$26,783.25 to customers for overcharges on intrastate long distance calls place from pay telephones. The Commission also ordered Teleleasing to provide staff with certain call billing records, and file revised tariff pages reflecting rate changes brought about by Order PSC-93-0896-AS-TP. By Order PSC-94-0263-FOF-TI, in Docket No. 931238-TI, issued March 18, 1994, the Commission closed the docket administratively upon staff verification of the refund.
- On July 16, 1996, by Order PSC-96-0912-FOF-TC, in Docket No. 960649-TC, in a pay telephone issue, the Commission ordered Telaleasing to show cause why it should not be fined or have its certificate canceled for violations of Commission rules; Response to Commission Staff Inquiries. By Order PSC-96-1349-FOF-TC, in Docket No. 960649-TC, issued November 18, 1996, the Commission accepted Telaleasing's offer to pay the \$10,000 fine and the docket was closed.
- On October 26, 1998, by Order PSC-98-1436-AS-TI, in Docket No. 980553-TI, in an interexchange issue, the Commission approved a show cause settlement offer from Telaleasing for violation of Rule 25-24.485 (I), Tariffs, Florida Administrative Code. Telaleasing was charging rates different than the rates filed in its tariff. The docket will be closed upon remittance of the full \$28,610 plus \$1000 fine to the state General Revenue Fund.
- From January 17, 1997, through October 19, 1998, staff performed 478 evaluations on pay telephones operated by Telaleasing. Staff found a total of 569 apparent violations of the Commission's service standards.

DOCKET 981798-TC
FEBRUARY 4, 1999

- There were 67 instances where the correct address of the pay telephone location was not displayed, 44 cases in which a legible and correct telephone number was not displayed, 32 instances in which the address posted on the pay telephone conflicted with the address listed with '911', 17 instances where access to all available interexchange carriers was not available, 57 instances where direct free access to the local operator was not available, 131 instances where pay telephones did not have a current directory, and 15 instances in which the pay telephone did not comply with established handicapped requirements.

- Telaleasing was notified of each violation and given 15 days to respond with corrective action taken to bring the instruments into compliance with Commission rules. In addition, staff's notices suggested that Telaleasing inspect all of its pay phones for the same violations.

- In addition to the service standards violations, Telaleasing also owes a Regulatory Assessment Fee penalty of \$139.32 and interest of \$27.86 for 1994.

DISCUSSION OF ISSUES

ISSUE 1.: Should Telaleasing Enterprises, Inc. be ordered to show cause why it should not be fined \$62,000 or certificate number 2358 should not be canceled for apparent violations of Rule 25-24.515, Florida Administrative Code?

RECOMMENDATION: Yes. Due to the number and severity of apparent violations found during routine service evaluations, staff recommends that the Commission order Telaleasing to show cause why it should not be fined \$62,000 or have its certificate canceled for numerous apparent violations of the Commission's pay telephone service standards in Rule 25-24.515, Florida Administrative Code. (MCCOY)

STAFF ANALYSIS: Rule 25-24.515, Florida Administrative Code, states, in pertinent part:

(5) Each telephone station shall be equipped with a legible sign, card, or plate of reasonable permanence which shall identify the following: telephone number and location address of such station, name of the certificate holder and the party responsible for repairs and refunds, address of responsible party, free phone number of responsible party, clear dialing instructions (including notice of the lack of availability of local or toll services)...

In routine evaluations, staff found 111 pay stations in which the telephone numbers and location addresses were either illegible, incorrect or not posted at all.

Rule 25-24.515, Florida Administrative Code, states, in pertinent part:

(6) Each telephone station which provides access to any interexchange company shall provide coin free access, except for feature group A access, to all locally available interexchange companies...

In routine evaluations, staff found 17 pay stations that did not allow access to all locally available carriers.

Rule 25-24.515, Florida Administrative Code, states:

(7) All intralata calls, including operator service calls, shall be routed to the local exchange company, unless the end user dials the appropriate access code for their carrier of choice, i.e., 950, 800, 10XXX.

In routine evaluations, staff found 57 pay stations where an intralata call did not route to the local exchange company.

Rule 25-24.515, Florida Administrative Code, states:

(11) Where there are fewer than three telephones located in a group, a directory for the entire local calling area shall be maintained at each station. Where there are three or more telephones located in a group, a directory for the entire local calling area shall be maintained at every other station except where telephone stations are fully enclosed, a directory shall be maintained at each station. However, where telephone stations are fully enclosed, a directory shall be maintained at each station.

In routine evaluations, staff found 131 pay stations that did not have a directory or the directory was not current. Three of those pay stations evaluated did not have brackets in place to even accommodate a directory.

Rule 25-24.515, Florida Administrative Code, states, in pertinent part:

(13) Each telephone station installed after January 5, 1987, shall conform to subsections 4.29.2 through 4.29.4 and 4.29.7 through 4.29.8 of the standards published by the American National Standards Specifications for Making Buildings and Facilities Accessible and Usable by Physically Handicapped People, approved February 5, 1986 by the American National Standards Institute, Inc. Institute, Inc. (ANSI A117.1-1986), which is incorporated by reference into this rule. Each telephone station installed prior to January 5, 1987

shall conform to the above standards by
January 1, 1995...

Telaleasing was provided a copy of all applicable rules at the time of application and had been certificated over two years after the January, 1987 effective date of the ANSI standards. Therefore, it is staff's belief that Telaleasing should not have any wheelchair accessibility violations. During routine evaluations staff found 15 instruments in apparent violation of Rule 25-24.515 (13), Florida Administrative Code, wheelchair accessibility. Further analysis shows that 8 of those 15 pay stations did not meet the height or wheelchair ground clearance width requirement, and 7 of those 8 pay stations were installed in 1991 or later, four years after the ANSI standards went into effect.

When pay telephone companies are notified of apparent violations, staff's notices suggest that the company inspect each of its pay phones for the same violations. Despite the fact that Telaleasing has been show caused in prior dockets for wheelchair accessibility violations in 1991 and 1996, it appears Telaleasing continues to fail to comply with this rule. Apparently, Telaleasing is still not ensuring that all of its pay telephones are in compliance as required in Commission Order No. PSC-92-0219-FOF-TC issued in April, 1992, and again cited in Commission Order No. PSC-96-0912-FOF-TC issued in July, 1996.

The following chart shows the total number of violations found during routine pay station evaluations from January 17, 1997, through October 19, 1998 for each rule.

Item No.	Number of Violations	Violation
1	15	Telephone was not in service Rule 25-24.515 (10), Florida Administrative Code
2	15	Telephone was not wheelchair accessible Rule 25-24.515 (13), Florida Administrative Code
3	44	Telephone number plate was not displayed Rule 25-24.515 (5), Florida Administrative Code

Item No.	Number of Violations	Violation
4	2	Address of responsible party for refunds/repairs was not displayed Rule 25-24.515 (5), Florida Administrative Code
5	10	Coin free number for repairs/refunds did not work properly Rule 25-24.515 (5), Florida Administrative Code
6	131	Current directory was not available Rule 25-24.515 (11), Florida Administrative Code
7	4	Bracket to hold a current directory was not available Rule 25-24.515 (11), Florida Administrative Code
8	7	Wiring was not properly terminated or was in poor condition Rule 25-24.515 (10), Florida Administrative Code
9	67	Address of pay phone location was not displayed Rule 25-24.515 (5), Florida Administrative Code
10	25	Enclosure was not adequately clean or free of trash Rule 25-24.515 (12), Florida Administrative Code
11	20	Enclosure was not adequate or free of trash Rule 25-24.515 (12), Florida Administrative Code
12	7	Glass was chipped or broken Rule 25-24.515 (12), Florida Administrative Code
13	24	Insufficient light to read instructions at night Rule 25-24.515 (1), Florida Administrative Code

Item No.	Number of Violations	Violation
14	2	Certificated name of provider was not displayed Rule 25-24.515 (5), Florida Administrative Code
15	17	Name of IXC was not correctly displayed Rule 25-24.515 (6), Florida Administrative Code
16	4	Clear and accurate dialing instructions were not displayed Rule 25-24.515 (5), Florida Administrative Code
17	8	Statement of services not available was not displayed Rule 25-24.515 (5), Florida Administrative Code
18	7	Automatic coin return function did not operate properly Rule 25-24.515 (2), Florida Administrative Code
19	7	Incoming calls could not be received or bell did not ring loud enough Rule 25-24.515 (8), Florida Administrative Code
20	57	Direct, free service to local operator did not work Rule 25-24.515 (7), Florida Administrative Code
22	17	Access to all locally available interexchange carriers was not available Rule 25-24.515 (6), Florida Administrative Code
23	4	Direct, free access to the universal telephone number "911" or service to local operator did not work Rule 25-24.515(3), Florida Administrative Code

Item No.	Number of Violations	Violation
24	32	911 center could not verify the street address of the pay phone Rule 25-24.515 (5), Florida Administrative Code
25	11	Transmission was not adequate or free of noise Rule 25-24.515 (10), Florida Administrative Code
27	17	Combination of nickels and dimes did not operate properly Rule 25-24.515 (2), Florida Administrative Code
29	15	Code 0 + area code + local number did not go to LEC operator Rule 25-24.515 (7), Florida Administrative Code

In prior Telaleasing dockets involving violations of the pay telephone service rules, fines and settlements have ranged from \$5000 to \$10,000. In previous dockets involving other pay telephone companies, violations of the pay telephone service rules, fines and settlements have ranged from \$100 to \$60,400. Factors that have affected previous fines and settlement amounts are: the number of occurrences of apparent violations; the severity of the violations; and whether the provider promptly corrected violations when notified. In this case, staff believes the number of occurrences, the seriousness of the violations, the company's apparent continued non-compliance with Commission Rules, and Orders No. PSC-92-0219-FOF-TC and PSC-96-0912-FOF-TC, warrants a substantial penalty. Therefore, staff recommends Telaleasing be ordered to show cause why it should not be fined \$62,000 or have its certificate canceled.

ISSUE 2.: Should the Commission impose a \$500 fine or cancel Telaleasing Enterprises, Inc.'s Pay Telephone certificate no. 2358 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel Telaleasing's certificate number 2358 if the fine and the regulatory assessment fees, including statutory penalties and interest are not received by the Commission within 5 business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes. If the Commission's Order is not protested and the fine and the regulatory assessment fees, including statutory penalties and interest are not received, certificate number 2358 should be canceled. (MCCOY)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

On October 26, 1998, staff learned that Telaleasing had not submitted the regulatory assessment fee statutory penalty and interest charges for the year 1994. Therefore, Telaleasing has failed to comply with Rule 25-4.0161(8)(a) and (b), Florida Administrative Code.

Accordingly, staff recommends the Commission assess a \$500 fine for failure to comply with Commission rules or cancel certificate no. 2358 if the fine and the 1994 regulatory assessment fees statutory penalties and interest, are not paid within the specified time.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, an Order to Show Cause will be issued. If Telaleasing timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. The docket should also remain open to process any protest to Issue 2 that may be filed within 21 days of the issuance of the Order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If Telaleasing does not respond to the Commission's Order to Show Cause, the fine should be assessed, and the company will have five (5) business days from the end of the show cause response period to pay the fine. The fine shall be paid within five business days of the end of the show cause response period and forwarded to the Office of the Comptroller for deposit into the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If no timely protest to Issue 2 is filed and Telaleasing fails to respond to the Proposed Agency Action, this docket may be closed. (COX)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, an Order to Show Cause will be issued. If Telaleasing timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. The docket should also remain open pending the resolution of any protest to Issue 2 that may be filed within 21 days of the issuance of the Order by a person whose substantial interests are affected by the Commission's Proposed Agency Action. If Telaleasing does not respond to the Commission's Show Cause Order within 20 days of the issuance of the show cause order, the fine should be assessed. The fine shall be paid within five business days of the end of the show cause response period and forwarded to the Office of the Comptroller for deposit into the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If no timely protest of Issue 2 is filed and Telaleasing fails to respond to the Proposed Agency Action, this docket may be closed.