

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Accutel Communications, Inc. for Unlawful Billing Practices in violation of Section 364.10(1) and Section 364.604(2), F.S., and Insufficient Management Capability pursuant to Section 364.337(3), F.S.

DOCKET NO. 981488-TI
ORDER NO. PSC-00-1690-PCO-TI
ISSUED: September 21, 2000

ORDER MODIFYING DATES AND ISSUE ESTABLISHED
IN ORDER NUMBER PSC-99-2496-PCO-TI

Accutel Communications, Inc. (Accutel) was granted certificate number 4854 on May 13, 1997, to provide intrastate interexchange telecommunications service. As a certificated telecommunications company, Accutel is subject to the regulations of this Commission.

From September 30, 1997, through May 6, 1999, our Division of Consumer Affairs has received 171 consumer complaints against Accutel. These complaints were closed as unauthorized charges (cramming) in apparent violation of Sections 364.10 (1) and 364.604 (2), Florida Statutes. Accutel has offered no explanation as to the genesis and nature of the \$4.95 charge that appears on the customers' telephone bills as a service rendered by Accutel. Accutel, however, has provided refunds or credits in the amount of \$2,440.81 for 155 of the 171 apparent cramming violations. Based on the apparent violations, by Order No. PSC-99-1619-SC-TI, issued August 18, 1999, we ordered Accutel to show cause why it should not be fined in the amount of \$10,000 per infraction, for a total of \$1,710,000, or have its certificate canceled for its apparent violations of Sections 364.10(1) and 364.604(2), Florida Statutes, Unlawful Billing Practices, and for Insufficient Management Capability, pursuant to Section 364.337(3), Florida Statutes. On September 8, 1999, Accutel responded to the Show Cause Order and this matter was set for an administrative hearing.

By Order No. PSC-99-2496-PCO-TI, issued December 20, 1999, the procedure for this docket was outlined, and the hearing and prehearing dates were established. Accutel failed to comply with this Order and did not appear at the March 23, 2000 Prehearing Conference. Based on Accutel's non-appearance at the scheduled

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-00-1690-PCO-TI
DOCKET NO. 981488-TI
PAGE 2

Prehearing Conference, on April 20, 2000, Order No. PSC-00-0776-FOF-TI issued, Dismissing Accutel's Response to Order to Show Cause and Imposing Fine for Violating Statutes.

On May 5, 2000, Accutel filed a Motion for Reconsideration, alleging that its failure to participate was a result of counsel of record not being noticed on each of the scheduled events in this docket and not being provided with a copy of the recommendation upon which the Order Dismissing Accutel's Response to Order to Show Cause and Imposing Fine for Violating Statutes was based. That Motion was granted on June 23, 2000, by Order No. PSC-00-1149-FOF-TI.

The granting of the Motion for Reconsideration restores this matter to the point in the proceedings where testimony is due from the Company. Our staff had timely filed testimony in this matter. Therefore, the dates established in Order No. PSC-99-2496-PCO-TI are modified as follows:

- | | |
|---|-------------------|
| 1) Testimony and Exhibits of Company | January 8, 2000 |
| 2) Rebuttal testimony and exhibits,
if any - Staff | February 5, 2000 |
| 3) Prehearing Statements | February 19, 2001 |
| 4) Prehearing Conference | March 5, 2001 |
| 5) Hearing | March 19, 2001 |
| 6) Briefs Due | April 16, 2001 |

In addition, due to a scrivener's error, an incorrect issue was incorporated into Order No. PSC-99-2496-PCO-TI, as Attachment A. Accordingly, the correct issue is hereby approved and incorporated into this Order as Attachment A to this Order.

This Order does not alter any other procedures established by Order No. PSC-99-2496-PCO-TI.

ORDER NO. PSC-00-1690-PCO-TI
DOCKET NO. 981488-TI
PAGE 3


Based on the foregoing, it is

ORDERED by Commissioner Lila A. Jaber, as Prehearing Officer, that the dates in Order No. PSC-99-2496-PCO-TI are modified as established in the body of this Order. It is further

ORDERED that the correct statement of the issue in this matter is set forth in Attachment A to this Order, and by reference is hereby incorporated herein. It is further

ORDERED that Order No. PSC-99-2496-PCO-TI is reaffirmed in all other respects.

By ORDER of Commissioner Lila A. Jaber as Prehearing Officer, this 21st day of September, 2000.



LILA A. JABER
Commissioner and Prehearing Officer

(S E A L)

CLF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

ORDER NO. PSC-00-1690-PCO-TI
DOCKET NO. 981488-TI
PAGE 4

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

ORDER NO. PSC-00-1690-PCO-TI
DOCKET NO. 981488-TI
PAGE 5

APPENDIX A
STATEMENT OF ISSUES

- 1) a) Did Accutel Communications, Inc. violate Section 364.10(1) and Section 364.604(2), F.S. Unlawful Billing Practices, and Section 364.337(3), F.S. Insufficient Management Capability?
- b) If so, how many violations were there, and what is the appropriate action, penalty, and/or fine amount to be imposed by the Commission for any such violations?