

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Integrated TeleServices, Inc. for violation of Rule 25-24.490, F.A.C., Customer Relations; Rules Incorporated; and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

DOCKET NO. 970097-TI
ORDER NO. PSC-98-0247-AS-TI
ISSUED: February 6, 1998

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER APPROVING SETTLEMENT, CANCELING CERTIFICATE
AND
DIRECTING CERTIFICATED INTEREXCHANGE TELECOMMUNICATIONS PROVIDERS
TO DISCONTINUE SERVICE

BY THE COMMISSION:

BACKGROUND

Integrated TeleServices, Inc. (ITS), holder of Certificate No. 4420, granted on May 29, 1996, is a provider of interexchange telecommunications services. Between June 13, 1996, and March 12, 1997, the Division of Consumer Affairs received 268 complaints against ITS for apparent unauthorized carrier changes ("slamming").

On May 5, 1997, we issued Order No. PSC-97-0512-FOF-TI to require 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, or have its certificate canceled. Thereafter, the company initiated settlement negotiations with our staff. On November 25, 1997, ITS filed a proposed settlement offer. Attachment A.

DOCUMENT NUMBER-DATE

01946 FEB-6 98

FPSC-RECORDS/REPORTING

SETTLEMENT

As of January 31, 1997, the Division of Consumer Affairs has closed a total of 191 complaints against ITS concerning unauthorized carrier changes as violations of Rule 25-24.490, Florida Administrative Code. In most cases the customers complained that ITS's telemarketers were misleading.

As noted above, we required the company to show cause in Order No. PSC-97-0512-FOF-TI. On May 27, 1997, ITS filed its response to our Order and requested a formal hearing pursuant to Section 120.57, Florida Statutes.

Following several discussions between our staff and ITS counsel, the company decided to surrender its certificate rather than submit to a fine it determined it could not bear, considering its volume of business in Florida. The company's settlement proposal is summarized as follows:

1. ITS would surrender its certificate for cancellation within 60 days of the Commission's order.
2. ITS would take appropriate steps to resolve any outstanding customer complaints, as well as any future complaints that may arise.
3. ITS would take appropriate steps to ensure existing customers in Florida are not inconvenienced by its withdrawal from the state.
4. ITS would not reapply for certification to provide intrastate telecommunications service of any kind prior to January 1, 2001.
5. Neither ITS, its management, nor its principals would enter or seek to enter in any other way the Florida intrastate telecommunications market before January 1, 2003.

At our agenda conference on January 20, 1998, we instructed the company to modify the settlement proposal to acknowledge our continuing jurisdiction over the company's response to consumer complaints that may be open or that may yet arise. On January 27,

1998, the company proposed that item 3 be amended to read as follows:

- 3) In any consumer inquiries 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. More specifically, Integrated agrees to comply with Commission Rule 24-4.111(1), F.A.C., and stipulates that the Commission retains jurisdiction over Integrated to enforce this rule against Integrated through all legally available means, including without limitation, the imposition of penalties pursuant to Section 364.285, Florida Statutes. (new language underlined)

Attachment B. The amendment to item 3 satisfies our instruction.

We find that ITS's proposed settlement offer is reasonable in the circumstances and we approve it. ITS shall have 60 days from the issuance of this Order in which to surrender its certificate, Certificate 4420, for cancellation.

DISCONTINUATION OF UNDERLYING SERVICE

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

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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.

In light of our decision to approve ITS's proposed settlement, any intrastate interexchange services offered by ITS following cancellation of its certificate would be in violation of Rule 25-24.4701(3), Florida Administrative Code. Since we cannot readily identify which interexchange carrier provides service to ITS, we hereby order all certificated interexchange carriers to take appropriate measures in order to discontinue service to ITS upon the cancellation of its certificate.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the settlement proposed by Integrated TeleServices, Inc., as set forth in Attachments A and B incorporated hereto by reference, is hereby approved. It is further

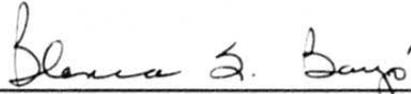
ORDERED that Certificate No. 4420 shall be canceled as specified in the body of this Order. It is further

ORDERED that all certificated interexchange carriers shall discontinue service to Integrated TeleServices, Inc., as specified in the body of this Order. It is further

ORDERED that this docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 6th
day of February, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

CJP

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

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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, slacking 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.

ATTACHMENT A
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Please contact me if any additional information is required.

Sincerely,


Patrick K. Wiggin

WIGGINS & VILLACORTA, P.A.

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January 27, 1998

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.

Additional Stipulation

Dear Mr. Pellegrini:

At the agenda conference on January 20, 1998, the Commission approved Integrated's proposed settlement on the condition that an additional stipulation be added with respect to responding to customer complaints and service requests. As you recall I agreed to provide the specific language that honored the Commission's intent in imposing the additional stipulation.

I believe that the best approach is to modify item 3 of Integrated's proposed settlement by adding the underscored language as follows:

- 3) If any consumer inquiries 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. More specifically, Integrated agrees to comply with Commission Rule 25-4.111 (1), F.A.C., and stipulates that the Commission retains jurisdiction over Integrated to enforce this rule against Integrated through all legally available means, including without limitation, the imposition of penalties pursuant to Section 364.285, Florida Statutes.

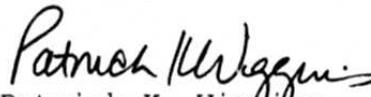
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I hope that you find this language satisfactory. If you have any concerns or question, please let me know.

Sincerely,


Patrick K. Wiggins