

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Long Distance Direct, Inc. for violation of Rules 25-4.043, F.A.C., Response to Commission Staff Inquiries, 25-4.118, F.A.C., Interexchange Carrier Selection, and 25-24.485(1)(i), F.A.C., Tariffs.

DOCKET NO. 971648-TI
ORDER NO. PSC-98-0567-SC-TI
ISSUED: April 23, 1998

ORDER TO SHOW CAUSE

BY THE COMMISSION:

I. BACKGROUND

On February 28, 1994, we granted Long Distance Direct, Inc. (LDDI) certificate number 3524 to provide intrastate interexchange telecommunications service.

On October 28, 1996, we received a consumer complaint from Days Inn OceanFront Resort (Days Inn) in Jacksonville. Days Inn alleged that LDDI switched the hotel's long distance service without proper authorization. In addition, Days Inn advised our staff that it had operator screening, yet LDDI billed the hotel for operator assisted calls. Initially, Days Inn only requested credit for all operator assisted calls.

Our staff contacted LDDI and requested a response by November 19, 1996. On December 10, 1996, LDDI responded that Pam Dolan, Days Inn's bookkeeper, had authorized the switch to LDDI's service on August 22, 1994, which was verified by an independent third party verifier. LDDI also advised that it had mailed Days Inn a "Welcome Kit" on September 15, 1994, which included a toll-free number to call if the customer did not wish to switch. LDDI also indicated that on at least two other occasions, LDDI contacted Ms. Dolan, and both times Ms. Dolan advised that she was satisfied with LDDI's service. LDDI advised staff that Daniel Blankenship on behalf of Days Inn requested cancellation of LDDI service on November 27, 1996. LDDI concluded that since Days Inn had used the

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service, received, and paid bills for 18 months, Days Inn remains responsible for outstanding charges totaling \$176.37.

Staff had several other contacts with LDDI before the company stopped responding to its inquiries. Staff wrote LDDI on June 20, 1997, and followed up with a telephone call on July 7, 1997. As of this date, LDDI has failed to respond despite a verbal promise to provide a written response. In addition, staff has had many contacts with Days Inn and BellSouth Telecommunications, Inc., in an attempt to resolve Days Inn's complaint.

II. DISCUSSION

A. Failure to Respond to Staff Inquiries

Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

Staff contacted LDDI several times during the pendency of this complaint. LDDI responded after the rule's required 15 day time limit every time except once. LDDI has failed to respond to staff's last contact with the company, which was made by telephone on July 7, 1997. Upon consideration, we believe a show cause order is appropriate for LDDI's failure to respond to our staff's inquiries. We hereby order Long Distance Direct, Inc. to show cause in writing within 20 days of the issuance of the show cause order why it should not have its certificate canceled or be fined \$1500 for apparent failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries.

B. Unauthorized Carrier Selection

Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection, states:

(1) The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization. A local exchange company (LEC) shall accept PIC change requests by telephone call or letter directly from its customers.

(6) The IXC shall provide the following disclosures when soliciting a change in service from a customer:

(a) Identification of the IXC;

(b) That the purpose of visit or call is to solicit a change of the PIC of the customer;

(c) That the PIC can not be changed unless the customer authorizes the change; and

(d) Any additional information as referenced in Rule 25-24.490(4).

As mentioned above, on October 28, 1996, staff received a consumer complaint from Days Inn OceanFront Resort (Days Inn) in Jacksonville that LDDI switched the hotel's long distance service without proper authorization. In addition, the consumer advised staff that it had subscribed to the operator screening service, yet LDDI billed the hotel for operator assisted calls. LDDI has responded that Days Inn did authorize the service change through a telemarketer with third party verification and later cancelled the service. LDDI concluded that since the customer had used the service, received, and paid bills for 18 months, Days Inn was responsible for outstanding charges totaling \$176.37. According to LDDI, the total outstanding amount has now increased to approximately \$2,797.55, which includes interest and late payment charges.

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In follow up contacts with LDDI, LDDI has provided copies of its telemarketing script (ATTACHMENT A), third party independent verifier script (ATTACHMENT B), and a transcription of the third party independent verification call between the verifier and Ms. Pam Dolan of Days Inn (ATTACHMENT C).

The company's telemarketing script states, in pertinent part:

I am calling from Long Distance Direct regarding a rate reduction program using the AT&T Network.

In order to be in compliance with our Rule 25-4.118(6)b), Florida Administrative Code, LDDI's script should have stated:

I am calling from Long Distance Direct and the purpose of my call is to solicit a change of your long distance carrier.

LDDI's script also states:

I am with Long Distance Direct a reseller of AT&T Network Services and would like to tell you about a rate reduction program utilizing the AT&T Network. The program allows you to use the AT&T Network and receive rates that are 15%-18% lower than what AT&T can offer you directly.

In that one sentence, the telemarketer uses AT&T's name four times and uses its own name only once. A consumer easily could believe that he or she is speaking with a representative of AT&T.

The company also provided staff with its third party verification script (ATTACHMENT B) and a transcript of the third party verification call between Ms. Pam Dolan of Days Inn and the verifier (ATTACHMENT C). The following are direct quotes from the company's transcript:

Pam: ...and this isn't going to interfere with our other carrier?

Ver: No.

Pam: In any way.

Ver: Just, will be just discontinuing on these lines that you have on this line that you have on AT&T. (sic) It won't interfere with your other carrier at all.

Pam: Okay.

Ver: Okay, that's about all the information I need. My name is Anne Annason, I'm with Long Distance Direct. You'll start to receive your savings in about thirty days. You'll be receiving your bill directly from the AT&T Bill Manager Service and if you have any questions, you can just call 800 number on your bill. Thanks again for your time.

It appears from the transcript that the third party verifier did not use the script, and that it appears Ms. Dolan was verifying that she was not changing Days Inn's long distance carrier. Upon consideration, we conclude that the required verification did not occur; we therefore order LDDI to show cause in writing within 20 days of the effective date of the order why it should not have its certificate canceled or be fined \$10,000 for apparent failure to comply with Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection.

C. Tariff Violation

Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs, states in pertinent part:

Companies shall charge only the rates contained in their tariffs.

During the pendency of Days Inn's complaint, we learned that Long Distance Direct was apparently not billing according to its tariffs. For example, Section 4.2 of LDDI's tariff states that

customers will be billed \$0.70 for "each directory assistance call. The directory assistance charge applies to each call regardless of whether the directory assistance bureau is able to furnish the requested telephone number." (ATTACHMENT D) Days Inn's March 12, 1996, bill shows a directory assistance call was \$2.21, significantly more than the \$0.70 charge specified in LDDI's tariff. (ATTACHMENT E)

In addition, LDDI billed the customer a 7.2 minute direct dialed call to Daytona Beach and charged Days Inn \$2.09. LDDI's tariff, Section 4.1.4.A, states that the evening rate is \$.0618 for the initial 18 seconds and \$.0206 for each additional six seconds. (ATTACHMENT F) It appears that Days Inn should have been billed \$1.48 for the 7.2 minute call computed as follows:

\$.0618	x	1	=	\$0.06
\$.0206	x	69	=	<u>\$1.42</u>
Total				\$1.48

Upon consideration, we hereby order Long Distance Direct, Inc. to show cause in writing within 20 days of the effective date of the order why it should not have its certificate canceled or be fined \$250 for apparent failure to comply with Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs.

D. Refund to Days Inn

If the change by LDDI is unauthorized, Days Inn is entitled to have its charges rerated to those of its preferred carrier. In addition, credits/refunds should be issued by LDDI for any charges in excess of the amounts set forth in its tariff. Therefore, LDDI will need to undertake an analysis of its bills to Days Inn and to provide the results to us.

We hereby order Long Distance Direct, Inc. to show cause why it should not rerate all direct dialed calls, credit or refund the difference between the customer's preferred carrier's rates, plus interest, and LDDI's rates, credit or refund all directory assistance and operator assisted calls, plus interest, for the entire time that Days Inn was presubscribed to LDDI's service, and remove all late payment fees and charges. Accordingly, we order LDDI to undertake an analysis of its bills to Days Inn and to provide the results to this Commission within 60 days of the issuance of this order.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Long Distance Direct, Inc. show cause, in writing, within 20 days of the issuance of this Order why it should not have its certificate canceled or be fined \$1,500 for apparent failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. It is further

ORDERED that Long Distance Direct, Inc. show cause, in writing, within 20 days of the issuance of this Order why it should not have its certificate canceled or be fined \$10,000 for apparent failure to comply with Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection. It is further

ORDERED that Long Distance Direct, Inc. show cause, in writing, within 20 days of the issuance of this Order why it should not have its certificate canceled or be fined \$250 for apparent failure to comply with Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs. It is further

ORDERED that Long Distance Direct, Inc. show cause, in writing, within 20 days of the issuance of this Order why it should not rerate all direct dialed calls, credit or refund the difference between Jacksonville Days Inn OceanFront Resort's preferred carrier's rates, plus interest, and Long Distance Direct, Inc.'s rates, credit or refund all directory assistance and operator assisted calls, plus interest, for the entire time that Jacksonville Days Inn OceanFront Resort was presubscribed to Long Distance Direct, Inc.'s service, and remove all late payment fees and charges. It is further

ORDERED that Long Distance Direct, Inc. shall complete an analysis of its bills to Jacksonville Days Inn OceanFront Resort and provide the results, in writing, to this Commission within 60 days of the issuance of this order. It is further

ORDERED that if Long Distance Direct, Inc. timely responds to the show cause order, this docket shall remain open pending resolution of the show cause proceeding. It is further

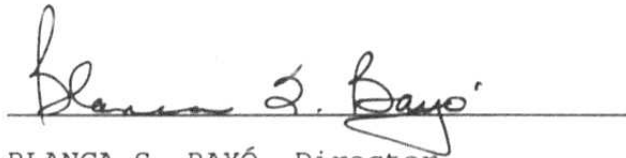
ORDERED that if Long Distance Direct, Inc. does not respond to the show cause order, the fines shall be deemed assessed. It is further

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ORDERED that any collected fine monies shall be forwarded to the Office of the Comptroller for deposit in the state General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that if Long Distance Direct, Inc. fails to respond to the show cause order, and the fines are not received within five business days after the expiration of the show cause response period, Long Distance Direct, Inc.'s certificate shall be canceled, and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 23rd day of April, 1998.

A handwritten signature in cursive script, appearing to read "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 13, 1998.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

*LONG DISTANCE DIRECT
TELEMARKETING SALES SCRIPT*

Good _____, My name is _____, I am calling from Long Distance Direct regarding a rate reduction program using the AT&T Network. Who do I need to speak to regarding this?

Who am I speaking with?

(Customer's Name), I am with Long Distance Direct a reseller of AT&T Network Services and would like to tell you about a rate reduction program utilizing the AT&T Network. The program allows you to use the AT&T Network and receive rates that are 15%-18% lower than what AT&T can offer you directly.

This program is only available for businesses that use over \$50 per month in long distance service. Do you know how much you spent on the long distance portion of your phone bill last month or that portion outside your state and local area code?

Do your long distance charges come on your local phone bill or do you receive a separate bill for your long distance charges? (If they are guessing they might not qualify or you may need to ask again)

Is it possible to take a moment and get that (those) bill(s) handy? Thanks. OK, on that bill how much did you spend on the long distance portion of your phone bill last month? (If more than \$50, Ok to proceed).

Would you like to sign up for this program provided by Long Distance Direct and utilizing the AT&T Network? Do you have any other telephone or fax numbers?

OK, and (Customer's Name) are you authorized to make the transfer of service to Long Distance Direct? If you are not available, who else can we contact in order to provide customer service?

On your local phone bill, you will see a three digit code which appears after your account number. Can you read that entire number including those three numbers to me? OK, I would just like to confirm your Company Name, Physical address, Do you have any other locations? Is this the same address to be used for mailing? Now I need you to spell your full name and title for me. Thank you. I just also want to be sure that you do not currently have a term plan or contract with AT&T. Do you know if you have a contract or term plan?

Now, (Customer's Name) I am going to process your request for service with Long Distance Direct's National Processing Center. You will be receiving a confirmation call from there probably within the hour but definitely before the end of the day.

You will receive your savings within 30 days. If you have any questions, our toll-free number is located on the upper right hand corner of the invoice. Thank you for your time and enjoy your savings.

12/24/96

*LONG DISTANCE DIRECT
TELEMARKETING VERIFICATION SCRIPT*

AS YOU ARE DIALING THE CONTACT NUMBER, PLEASE STATE OUT LOUD THE CUSTOMER NAME, AREA CODE AND PHONE NUMBER.

Hello, may I speak with (Customer's Name)? Hello, (Customer's Name), this is _____ calling from Long Distance Direct Verification Center and I am recording and verifying the account information of the (Company Name) and I am speaking with (Customer's Name) who is the (Customer's title) is that correct?

OK, (Customer's Name), I have your address as... and your main billing telephone number as... and beyond the main number would you like the rate reduction program of 15-18% applied to those additional lines also? Is that correct? and those lines are...(read all lines to customer).

I would also like to verify that you have not signed a contract for any type of term plan with AT&T like CustomNet, UniPlan or Small Business Option.

Also, have you ever done business with a reseller before?

On your phone bill did you read the sales representative your customer code? And that number is ...(Let the customer read the code for each BTN)

On that bill, what is the amount of long distance charges on your most recent statement? Now that \$ ____ are those current charges only? Great!

(Customer's Name), it will take approximately three weeks for the rate reduction program to go into effect. Your bill will now come from Long Distance Direct and it will say "utilizing the AT&T Network." You will also be receiving a welcome call and welcome kit shortly.

Now, (Customer's Name) as (Customer's Title) you can approve the rate reduction program to Long Distance Direct utilizing the AT&T Network, Is that correct? Also, if you are not available, who else at your company can we contact for customer service.

(Customer's Name), Long Distance Direct will now be providing your customer service and billing and the long distance service will utilize the AT&T Network.

OK, great! Our 800 number will be on the monthly statement. Thank you for your time and enjoy your savings.



Verifier: I just need to record this to make sure you did dial correctly, is that alright?

Pam: That's fine.

Ver: And what is the current business name, name? Excuse me.

Pam: Days Inn oceanfront.

Ver: And that's at 1031 First Street

Pam: Right

Ver: Jacksonville, Florida, 32250.

Pam: Yes

Ver: Is that the billing address also.

Pam: Yes it is.

Ver: Okay, and what are the lines that are on AT&T?

Pam: Our WATTS line.

Ver: What number is that?

Pam: 800-321-2037

Ver: Do you have any regular lines on that?

Pam: Yes some of our direct lines from the 904-249-7231 go out at, over ATT.

Ver: Okay, do you have any other lines besides them?

Pam: No.

Ver: Do you think you would do seventy dollars or more on that 7231, cause this would just be the out of state long distance or wouldn't count for the 800 number.

Pam: Yes.

Ver: Okay, alright, and your full name please.

Pam: Pam Dolan (spelling) D O L A N.

Ver: That was Pam?

Pam: Right.

Ver: Okay, and your position is the business controller and you have the authority to make this decision?

Pam: Yes I do.

Ver: Okay, and who is your local phone company.

Pam: Southern Bell.

Ver: Do you happen to have a Southern Bell Bill handy? Just need three digit number out there to get this processed.

Pam: Hold on.

Ver: Sure. (long pause)

Pam: Kaye, the number is three (3), one (1), nine (9).

Ver: Okay.

Pam: and this isn't going to interfere with our other carrier?

Ver: No.

Pam: In anyway.

Ver: Just, will be just discontinuing on these lines that you have on this



you have on AT&T. It won't interfere with your other carrier at all.

Pam: Okay.

Ver: Okay, that's about all the information I need. My name is Anne Annason, I'm with Long Distance Direct. You'll start to receive your savings in bout thirty days. You'll be receiving your bill directly from the AT&T Bill Manager Service and if you have any questions, you can just call 800 number on your bill. Thanks again for your time.

Pam: Okay.

Ver: Have a great day.

Pam: Thank you.

Ver: Bye.

Pam: Bye.

-6708-428

INVOICE DATE: 03/12/96

PAGE 1 OF

TIME	TYPE	PHONE NUMBER	LOCATION	DURATION	CHARGE
PAYMENTS/ADJUSTMENTS					
PAYMENTS					
1	02/29/96	PAYMENT RECEIVED (511 - PAYMENT/BANK)			-79.15
TOTAL PAYMENTS					\$-79.15
DIRECT DIAL CALLS					
CALLS ORIGINATING FROM 904 249-7231					
DIRECTORY ASSISTANCE					
2	02/17/96	407 555-1212	DIR ASST FL	0.6	2.21
TOTAL DIRECTORY ASSISTANCE					\$2.21
INTRASTATE					
3	02/09/96	904 444-0844	DAYTONA FL	7.2	2.08
4	02/26/96	904 486-1397	HOLLYWOOD FL	9.0	2.60
5	02/26/96	407 249-2898	FT GALLIE FL	3	.08
TOTAL INTRASTATE					\$4.77
INTERSTATE					
6	02/02/96	804 827-8799	HAMPTON VA	9.4	2.17
7	02/04/96	216 243-2519	BEREA OH	8.0	1.85
8	02/07/96	804 827-8799	HAMPTON VA	8.6	1.99
9	02/07/96	601 368-3480	BALDWIN MS	5.8	1.34
10	02/13/96	619 548-1510	CORONADO CA	9.1	2.10
11	02/13/96	817 791-0431	TEMPLE TX	1.0	.24
12	02/14/96	203 754-1827	WATERBURY CT	13.5	3.12
13	02/15/96	804 464-1183	VIRGINIA VA	1.1	.25
14	02/16/96	217 532-9431	HILLSBORO IL	1.9	.55
15	02/17/96	601 368-7982	BALDWIN MS	7.1	1.64
16	02/20/96	423 687-8500	KNOXVILLE TN	3.1	.71
17	02/23/96	804 481-3872	VIRGINIA VA	2.3	.53
18	02/25/96	615 528-2034	COOKEVILLE TN	14.3	3.30
19	02/25/96	607 625-3330	APALACHIN NY	14.5	3.35
20	02/26/96	423 688-4167	KNOXVILLE TN	12.8	2.95
21	02/26/96	607 763-3314	BINGHAMTON NY	.9	.21
22	02/29/96	802 862-9778	BURLINGTON VT	13.7	3.16
23	03/05/96	804 436-2611	GREAT BOG VA	14.6	3.50
24	03/05/96	805 296-7935	SANCLARITA CA	6.2	1.48
TOTAL INTERSTATE					\$34.44
TOTAL CALLS ORIGINATING FROM 904 249-7231					\$41.42
TOTAL DIRECT DIALED CALLS					\$41.42
OTHER CALLING CARD/OPERATOR ASSISTED CALLS					
SPECIAL OPERATOR ASSISTED					
25	02/09/96	8:43PM FROM 904 249-7231 TO 058 415-8372	JACKSVLBC FL VENEZUELA VE	8.0	15.93
26	02/20/96	10:25AM FROM 904 249-7231 TO 044 158-0769	JACKSVLBC FL UK UK	6.8	16.75
27	03/02/96	7:00PM FROM 904 249-7231 TO 904 277-4171	JACKSVLBC FL FERNADNBCH FL	1.3	2.61
TOTAL SPECIAL OPERATOR ASSISTED					\$35.29
TOTAL OTHER CALLING CARD/OPERATOR ASSISTED CALLS					\$35.29
NEW MESSAGES					\$76.71

LONG DISTANCE DIRECT, INC.

FLAPSC TARIFF NO. 1
ORIGINAL SHEET 21

SECTION 4 - RATES

4.1.4 Florida Intrastate Interlata Rates

4.1.4.A Schedule A
(dial-up to dial-up service)

	<u>Day</u>		<u>Even</u>		<u>Night</u>	
	<u>INITIAL</u>	<u>ADD'L</u>	<u>INITIAL</u>	<u>ADD'L</u>	<u>INITIAL</u>	<u>ADD'L</u>
	<u>18 SEC.</u>	<u>6 SEC.</u>	<u>18 SEC.</u>	<u>6 SEC.</u>	<u>18 SEC.</u>	<u>6 SEC.</u>
	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>
All	0.0537	0.0179	0.0618	0.0206	0.0618	0.0206

4.1.4.B Schedule B

(Dial-up to dedicated or dedicated to dial-up service)

	<u>Day</u>		<u>Even</u>		<u>Night</u>	
	<u>INITIAL</u>	<u>ADD'L</u>	<u>INITIAL</u>	<u>ADD'L</u>	<u>INITIAL</u>	<u>ADD'L</u>
	<u>18 SEC.</u>	<u>6 SEC.</u>	<u>18 SEC.</u>	<u>6 SEC.</u>	<u>18 SEC.</u>	<u>6 SEC.</u>
	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>
All	0.0456	0.0152	0.0357	0.0119	0.0357	0.0119

4.1.4.C Schedule C
(dedicated to dedicated service)

	<u>Day</u>		<u>Even</u>		<u>Night</u>	
	<u>INITIAL</u>	<u>ADD'L</u>	<u>INITIAL</u>	<u>ADD'L</u>	<u>INITIAL</u>	<u>ADD'L</u>
	<u>18 SEC.</u>	<u>6 SEC.</u>	<u>18 SEC.</u>	<u>6 SEC.</u>	<u>18 SEC.</u>	<u>6 SEC.</u>
	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>
All	0.0174	0.0058	0.0123	0.0041	0.0123	0.0041

Issued: November 24, 1993

Effective: FEB 26 1994

By:

Steven Lampert, President
Long Distance Direct, Inc.
1 Blue Hill Plaza
Pearl River, New York 10965

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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Staff contacted LDDI several times during the pendency of this complaint. LDDI responded after the rule's required 15 day time limit every time except once. LDDI has failed to respond to staff's last contact with the company, which was made by telephone on July 7, 1997. Upon consideration, we believe a show cause order is appropriate for LDDI's failure to respond to our staff's inquiries. We hereby order Long Distance Direct, Inc. to show cause in writing within 20 days of the issuance of the show cause order why it should not have its certificate canceled or be fined \$1500 for apparent failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries.

B. Unauthorized Carrier Selection

Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection, states:

(1) The primary interexchange company (PIC) of a customer shall not be changed without the customer's authorization. A local exchange company (LEC) shall accept PIC change requests by telephone call or letter directly from its customers.

(6) The IXC shall provide the following disclosures when soliciting a change in service from a customer:

(a) Identification of the IXC;

(b) That the purpose of visit or call is to solicit a change of the PIC of the customer;

(c) That the PIC can not be changed unless the customer authorizes the change; and

(d) Any additional information as referenced in Rule 25-24.490(4).

As mentioned above, on October 28, 1996, staff received a consumer complaint from Days Inn OceanFront Resort (Days Inn) in Jacksonville that LDDI switched the hotel's long distance service without proper authorization. In addition, the consumer advised staff that it had subscribed to the operator screening service, yet LDDI billed the hotel for operator assisted calls. LDDI has responded that Days Inn did authorize the service change through a telemarketer with third party verification and later cancelled the service. LDDI concluded that since the customer had used the service, received, and paid bills for 18 months, Days Inn was responsible for outstanding charges totaling \$176.37. According to LDDI, the total outstanding amount has now increased to approximately \$2,797.55, which includes interest and late payment charges.

In follow up contacts with LDDI, LDDI has provided copies of its telemarketing script (ATTACHMENT A), third party independent verifier script (ATTACHMENT B), and a transcription of the third party independent verification call between the verifier and Ms. Pam Dolan of Days Inn (ATTACHMENT C).

The company's telemarketing script states, in pertinent part:

I am calling from Long Distance Direct regarding a rate reduction program using the AT&T Network.

In order to be in compliance with our Rule 25-4.118(6)b), Florida Administrative Code, LDDI's script should have stated:

I am calling from Long Distance Direct and the purpose of my call is to solicit a change of your long distance carrier.

LDDI's script also states:

I am with Long Distance Direct a reseller of AT&T Network Services and would like to tell you about a rate reduction program utilizing the AT&T Network. The program allows you to use the AT&T Network and receive rates that are 15%-18% lower than what AT&T can offer you directly.

In that one sentence, the telemarketer uses AT&T's name four times and uses its own name only once. A consumer easily could believe that he or she is speaking with a representative of AT&T.

The company also provided staff with its third party verification script (ATTACHMENT B) and a transcript of the third party verification call between Ms. Pam Dolan of Days Inn and the verifier (ATTACHMENT C). The following are direct quotes from the company's transcript:

Pam: ...and this isn't going to interfere with our other carrier?

Ver: No.

Pam: In any way.

Ver: Just, will be just discontinuing on these lines that you have on this line that you have on AT&T. (sic) It won't interfere with your other carrier at all.

Pam: Okay.

Ver: Okay, that's about all the information I need. My name is Anne Annason, I'm with Long Distance Direct. You'll start to receive your savings in about thirty days. You'll be receiving your bill directly from the AT&T Bill Manager Service and if you have any questions, you can just call 800 number on your bill. Thanks again for your time.

It appears from the transcript that the third party verifier did not use the script, and that it appears Ms. Dolan was verifying that she was not changing Days Inn's long distance carrier. Upon consideration, we conclude that the required verification did not occur; we therefore order LDDI to show cause in writing within 20 days of the effective date of the order why it should not have its certificate canceled or be fined \$10,000 for apparent failure to comply with Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection.

C. Tariff Violation

Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs, states in pertinent part:

Companies shall charge only the rates contained in their tariffs.

During the pendency of Days Inn's complaint, we learned that Long Distance Direct was apparently not billing according to its tariffs. For example, Section 4.2 of LDDI's tariff states that

customers will be billed \$0.70 for "each directory assistance call. The directory assistance charge applies to each call regardless of whether the directory assistance bureau is able to furnish the requested telephone number." (ATTACHMENT D) Days Inn's March 12, 1996, bill shows a directory assistance call was \$2.21, significantly more than the \$0.70 charge specified in LDDI's tariff. (ATTACHMENT E)

In addition, LDDI billed the customer a 7.2 minute direct dialed call to Daytona Beach and charged Days Inn \$2.09. LDDI's tariff, Section 4.1.4.A, states that the evening rate is \$.0618 for the initial 18 seconds and \$.0206 for each additional six seconds. (ATTACHMENT F) It appears that Days Inn should have been billed \$1.48 for the 7.2 minute call computed as follows:

\$.0618 x 1 =	\$0.06
\$.0206 x 69 =	<u>\$1.42</u>
Total	\$1.48

Upon consideration, we hereby order Long Distance Direct, Inc. to show cause in writing within 20 days of the effective date of the order why it should not have its certificate canceled or be fined \$250 for apparent failure to comply with Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs.

D. Refund to Days Inn

If the change by LDDI is unauthorized, Days Inn is entitled to have its charges rerated to those of its preferred carrier. In addition, credits/refunds should be issued by LDDI for any charges in excess of the amounts set forth in its tariff. Therefore, LDDI will need to undertake an analysis of its bills to Days Inn and to provide the results to us.

We hereby order Long Distance Direct, Inc. to show cause why it should not rerate all direct dialed calls, credit or refund the difference between the customer's preferred carrier's rates, plus interest, and LDDI's rates, credit or refund all directory assistance and operator assisted calls, plus interest, for the entire time that Days Inn was presubscribed to LDDI's service, and remove all late payment fees and charges. Accordingly, we order LDDI to undertake an analysis of its bills to Days Inn and to provide the results to this Commission within 60 days of the issuance of this order.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Long Distance Direct, Inc. show cause, in writing, within 20 days of the issuance of this Order why it should not have its certificate canceled or be fined \$1,500 for apparent failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. It is further

ORDERED that Long Distance Direct, Inc. show cause, in writing, within 20 days of the issuance of this Order why it should not have its certificate canceled or be fined \$10,000 for apparent failure to comply with Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection. It is further

ORDERED that Long Distance Direct, Inc. show cause, in writing, within 20 days of the issuance of this Order why it should not have its certificate canceled or be fined \$250 for apparent failure to comply with Rule 25-24.485(1)(I), Florida Administrative Code, Tariffs. It is further

ORDERED that Long Distance Direct, Inc. show cause, in writing, within 20 days of the issuance of this Order why it should not re-rate all direct dialed calls, credit or refund the difference between Jacksonville Days Inn OceanFront Resort's preferred carrier's rates, plus interest, and Long Distance Direct, Inc.'s rates, credit or refund all directory assistance and operator assisted calls, plus interest, for the entire time that Jacksonville Days Inn OceanFront Resort was presubscribed to Long Distance Direct, Inc.'s service, and remove all late payment fees and charges. It is further

ORDERED that Long Distance Direct, Inc. shall complete an analysis of its bills to Jacksonville Days Inn OceanFront Resort and provide the results, in writing, to this Commission within 60 days of the issuance of this order. It is further

ORDERED that if Long Distance Direct, Inc. timely responds to the show cause order, this docket shall remain open pending resolution of the show cause proceeding. It is further

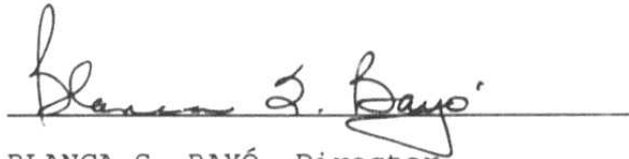
ORDERED that if Long Distance Direct, Inc. does not respond to the show cause order, the fines shall be deemed assessed. It is further

ORDER NO. PSC-98-0567-SC-TI
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ORDERED that any collected fine monies shall be forwarded to the Office of the Comptroller for deposit in the state General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that if Long Distance Direct, Inc. fails to respond to the show cause order, and the fines are not received within five business days after the expiration of the show cause response period, Long Distance Direct, Inc.'s certificate shall be canceled, and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 23rd day of April, 1998.

A handwritten signature in cursive script, reading "Blanca S. Bayó", is written over a horizontal line.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 13, 1998.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

*LONG DISTANCE DIRECT
TELEMARKETING SALES SCRIPT*

Good _____. My name is _____. I am calling from Long Distance Direct regarding a rate reduction program using the AT&T Network. Who do I need to speak to regarding this?

Who am I speaking with?

(Customer's Name), I am with Long Distance Direct a reseller of AT&T Network Services and would like to tell you about a rate reduction program utilizing the AT&T Network. The program allows you to use the AT&T Network and receive rates that are 15%-18% lower than what AT&T can offer you directly.

This program is only available for businesses that use over \$50 per month in long distance service. Do you know how much you spent on the long distance portion of your phone bill last month or that portion outside your state and local area code?

Do your long distance charges come on your local phone bill or do you receive a separate bill for your long distance charges? (If they are guessing they might not qualify or you may need to ask again)

Is it possible to take a moment and get that (those) bill(s) handy? Thanks. OK, on that bill how much did you spend on the long distance portion of your phone bill last month? (If more than \$50, Ok to proceed).

Would you like to sign up for this program provided by Long Distance Direct and utilizing the AT&T Network? Do you have any other telephone or fax numbers?

OK, and (Customer's Name) are you authorized to make the transfer of service to Long Distance Direct? If you are not available, who else can we contact in order to provide customer service?

On your local phone bill, you will see a three digit code which appears after your account number. Can you read that entire number including those three numbers to me? OK, I would just like to confirm your Company Name, Physical address, Do you have any other locations? Is this the same address to be used for mailing? Now I need you to spell your full name and title for me. Thank you. I just also want to be sure that you do not currently have a term plan or contract with AT&T. Do you know if you have a contract or term plan?

Now, (Customer's Name) I am going to process your request for service with Long Distance Direct's National Processing Center. You will be receiving a confirmation call from there probably within the hour but definitely before the end of the day.

You will receive your savings within 30 days. If you have any questions, our toll-free number is located on the upper right hand corner of the invoice. Thank you for your time and enjoy your savings.

12/24/96

*LONG DISTANCE DIRECT
TELEMARKETING VERIFICATION SCRIPT*

AS YOU ARE DIALING THE CONTACT NUMBER, PLEASE STATE OUT LOUD THE CUSTOMER NAME, AREA CODE AND PHONE NUMBER.

Hello, may I speak with (Customer's Name)? Hello, (Customer's Name), this is _____ calling from Long Distance Direct Verification Center and I am recording and verifying the account information of the (Company Name) and I am speaking with (Customer's Name) who is the (Customer's title) is that correct?

OK, (Customer's Name), I have your address as... and your main billing telephone number as... and beyond the main number would you like the rate reduction program of 15-18% applied to those additional lines also? Is that correct? and those lines are...(read all lines to customer).

I would also like to verify that you have not signed a contract for any type of term plan with AT&T like CustomNet, UniPlan or Small Business Option.

Also, have you ever done business with a reseller before?

On your phone bill did you read the sales representative your customer code? And that number is ...(Let the customer read the code for each BTN)

On that bill, what is the amount of long distance charges on your most recent statement? Now that \$ ____ are those current charges only? Great!

(Customer's Name), it will take approximately three weeks for the rate reduction program to go into effect. Your bill will now come from Long Distance Direct and it will say "utilizing the AT&T Network." You will also be receiving a welcome call and welcome kit shortly.

Now, (Customer's Name) as (Customer's Title) you can approve the rate reduction program to Long Distance Direct utilizing the AT&T Network, Is that correct? Also, if you are not available, who else at your company can we contact for customer service.

(Customer's Name), Long Distance Direct will now be providing your customer service and billing and the long distance service will utilize the AT&T Network.

OK, great! Our 800 number will be on the monthly statement. Thank you for your time and enjoy your savings.

12/24/96



Verifier: I just need to record this to make sure you did dial correctly, is that alright?

Pam: That's fine.

Ver: And what is the current business name, name? Excuse me.

Pam: Days Inn oceanfront.

Ver: And that's at 1031 First Street

Pam: Right

Ver: Jacksonville, Florida, 32250.

Pam: Yes

Ver: Is that the billing address also.

Pam: Yes it is.

Ver: Okay, and what are the lines that are on AT&T?

Pam: Our WATTS line.

Ver: What number is that?

Pam: 800-321-2037

Ver: Do you have any regular lines on that?

Pam: Yes some of our direct lines from the 904-249-7231 go out at, over ATT.

Ver: Okay, do you have any other lines besides them?

Pam: No.

Ver: Do you think you would do seventy dollars or more on that 7231, cause this would just be the out of state long distance or wouldn't count for the 800 number.

Pam: Yes.

Ver: Okay, alright, and your full name please.

Pam: Pam Dolan (spelling) D O L A N.

Ver: That was Pam?

Pam: Right.

Ver: Okay, and your position is the business controller and you have the authority to make this decision?

Pam: Yes I do.

Ver: Okay, and who is your local phone company.

Pam: Southern Bell.

Ver: Do you happen to have a Southern Bell Bill handy? Just need three digit number out there to get this processed.

Pam: Hold on.

Ver: Sure. (long pause)

Pam: Kaye, the number is three (3), one (1), nine (9).

Ver: Okay.

Pam: and this isn't going to interfere with our other carrier?

Ver: No.

Pam: In anyway.

Ver: Just, will be just discontinuing on these lines that you have on this



you have on AT&T. It won't interfere with your other carrier at all.

Pam: Okay.

Ver: Okay, that's about all the information I need. My name is Anne Annason, I'm with Long Distance Direct. You'll start to receive your savings in bout thirty days. You'll be receiving your bill directly from the AT&T Bill Manager Service and if you have any questions, you can just call 800 number on your bill. Thanks again for your time.

Pam: Okay.

Ver: Have a great day.

Pam: Thank you.

Ver: Bye.

Pam: Bye.

-6708-428

INVOICE DATE: 03/12/96

PAGE 1 OF 1

TIME	TYPE	PHONE NUMBER	LOCATION	DURATION	CHARGE
PAYMENTS/ADJUSTMENTS					
PAYMENTS					
1	02/29/96	PAYMENT RECEIVED (511 - PAYMENT/BANK)			-79.15
TOTAL PAYMENTS					\$-79.15
DIRECT DIAL CALLS					
CALLS ORIGINATING FROM 904 249-7231					
DIRECTORY ASSISTANCE					
2	02/17/96	2:01PM	407 555-1212	DIR ASST FL	2.21
TOTAL DIRECTORY ASSISTANCE					\$2.21
INTRASTATE					
3	02/09/96	10:18PM	904-444-0844	DAYTONA FL	7.2
4	02/26/96	9:07PM	904-488-1397	HOLLYWOOD FL	9.05
5	02/26/96	9:16PM	407-249-2888	EMM GALLIE FL	.2
TOTAL INTRASTATE					\$4.77
INTERSTATE					
6	02/02/96	7:38PM	804 827-8799	HAMPTON VA	9.4
7	02/04/96	7:55PM	216 243-2519	BEREA OH	8.0
8	02/07/96	8:07PM	804 827-8799	HAMPTON VA	8.6
9	02/07/96	8:28PM	801 368-3480	BALDWIN MS	5.8
10	02/13/96	5:43PM	619 545-1810	CORONADO CA	9.1
11	02/13/96	7:50PM	817 791-0431	TEMPLE TX	1.0
12	02/14/96	8:28PM	203 754-1627	WATERBURY CT	13.5
13	02/15/96	8:44PM	804 464-1183	VIRGINISCH VA	1.1
14	02/16/96	9:58AM	217 532-9431	HILLSBORO IL	1.9
15	02/17/96	7:53PM	601 368-7962	BALDWIN MS	7.1
16	02/20/96	9:08PM	423 887-8500	KNOXVILLE TN	3.1
17	02/23/96	6:17PM	804 481-3872	VIRGINISCH VA	2.3
18	02/28/96	7:34PM	619 528-2034	COOKEVILLE TN	14.3
19	02/28/96	8:22PM	607 625-3330	APALACHIN NY	14.5
20	02/28/96	7:38PM	423 888-4167	KNOXVILLE TN	12.8
21	02/28/96	8:17PM	607 763-3314	BINGHAMTON NY	.9
22	02/29/96	8:08PM	802 862-9778	BURLINGTON VT	13.7
23	03/06/96	5:34PM	804 436-2611	GREAT BDR VA	14.6
24	03/06/96	10:10PM	808 296-7935	SANCLARITA CA	6.2
TOTAL INTERSTATE					\$34.44
TOTAL CALLS ORIGINATING FROM 904 249-7231					\$41.42
TOTAL DIRECT DIALED CALLS					\$41.42
OTHER CALLING CARD/OPERATOR ASSISTED CALLS					
SPECIAL OPERATOR ASSISTED					
25	02/09/96	8:43PM	FROM 904 249-7231 TO 058 418-8372	JACKSVLBC FL VENEZUELA VE	8.0
26	02/20/96	10:25AM	FROM 904 249-7231 TO 044 158-0763	JACKSVLBC FL UK UK	6.8
27	03/02/96	7:00PM	FROM 904 249-7231 TO 904 277-4171	JACKSVLBC FL FERNADNBCH FL	1.3
TOTAL SPECIAL OPERATOR ASSISTED					\$35.29
TOTAL OTHER CALLING CARD/OPERATOR ASSISTED CALLS					\$35.29
NEW MESSAGES					\$76.71

LONG DISTANCE DIRECT, INC.

FLAPSC TARIFF NO. 1
 ORIGINAL SHEET 21

SECTION 4 - RATES

4.1.4 Florida Intrastate Interlata Rates

4.1.4.A Schedule A
 (dial-up to dial-up service)

	<u>Day</u>		<u>Even</u>		<u>Night</u>	
	INITIAL	ADD'L	INITIAL	ADD'L	INITIAL	ADD'L
	18 SEC.	6 SEC.	18 SEC.	6 SEC.	18 SEC.	6 SEC.
	\$	\$	\$	\$	\$	\$
All	0.0537	0.0179	0.0618	0.0206	0.0618	0.0206

4.1.4.B Schedule B

(Dial-up to dedicated or dedicated to dial-up service)

	<u>Day</u>		<u>Even</u>		<u>Night</u>	
	INITIAL	ADD'L	INITIAL	ADD'L	INITIAL	ADD'L
	18 SEC.	6 SEC.	18 SEC.	6 SEC.	18 SEC.	6 SEC.
	\$	\$	\$	\$	\$	\$
All	0.0456	0.0152	0.0357	0.0119	0.0357	0.0119

4.1.4.C Schedule C
 (dedicated to dedicated service)

	<u>Day</u>		<u>Even</u>		<u>Night</u>	
	INITIAL	ADD'L	INITIAL	ADD'L	INITIAL	ADD'L
	18 SEC.	6 SEC.	18 SEC.	6 SEC.	18 SEC.	6 SEC.
	\$	\$	\$	\$	\$	\$
All	0.0174	0.0058	0.0123	0.0041	0.0123	0.0041

Issued: November 24, 1993

Effective: FEB 26 1994

By:

Steven Lampert, President
 Long Distance Direct, Inc.
 1 Blue Hill Plaza
 Pearl River, New York 10963