

MEMORANDUM

August 11, 1998

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RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (B. KEATING) *B/K*

RE: DOCKET NO. 951232-TI - DADE COUNTY CIRCUIT COURT REFERRAL OF CERTAIN ISSUES IN CASE NO. 92-11654 (TRANSCALL AMERICA, INC. D/B/A ATC LONG DISTANCE VS. TELECOMMUNICATIONS SERVICES, INC., AND TELECOMMUNICATIONS SERVICES, INC. VS. TRANSCALL AMERICA, INC. D/B/A ATC LONG DISTANCE) THAT ARE WITHIN THE COMMISSION'S JURISDICTION.

92-1091-740

Attached is an PREHEARING ORDER, to be issued in the above referenced docket. (Number of pages in order - 24)

BK/anr
Attachment
cc: Division of Communications
I: 951232po.bk

MUST GO TODAY

*Miss. (alicia)
Rosa. n. n. n.*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Dade County Circuit Court referral of certain issues in Case No. 92-11654 (Transcall America, Inc. d/b/a ATC Long Distance vs. Telecommunications Services, Inc., and Telecommunications Services, Inc. vs. Transcall America, Inc. d/b/a ATC Long Distance) that are within the Commission's jurisdiction.

DOCKET NO. 951232-TI
ORDER NO. PSC-98-1091-PHO-TI
ISSUED: August 12, 1998

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on Thursday, August 6, 1998, in Tallahassee, Florida, before Commissioner Joe Garcia, as Prehearing Officer.

APPEARANCES:

Floyd R. Self, Esquire, and Albert T. Gimbel, Esquire, Messer, Caparello & Self, P.A., P.O. Box 1876, Tallahassee, FL 32302-1876.

On behalf of Transcall America, Inc., d/b/a ATC Long Distance.

Wesley R. Parsons, Esquire, 2601 South Bayshore Drive, Suite 1600, Miami, Florida 33133.

On behalf of Telecommunication Services, Inc.

Beth Keating, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of Commission Staff.

DOCUMENT NUMBER-DATE

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7:37 PM - JUNE REPORTING

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. CASE BACKGROUND

Transcall America, Inc., d/b/a Advanced Telecommunications Corp. (ATC) filed this complaint with the Dade County Circuit Court on May 21, 1992, against Telecommunications Services, Inc. (TSI) for alleged failure to pay for telecommunications services rendered. On July 5, 1994, TSI filed a counterclaim alleging breach of contract and improper billing of services. On February 24, 1995, the Court issued its Order Staying Action and Referring to the Florida Public Service Commission. Therein, the Court referred to this Commission for review all claims within the Commission's exclusive jurisdiction under Chapter 364. On January 29, 1997, TSI filed a Motion for Reconsideration of Order Staying Action and Referring to the Florida Public Service Commission and Motion for Leave to Amend Counterclaim with the Dade County Circuit Court. Transcall served its response to the motion on February 20, 1997, and the Commission served a response on April 18, 1997. On May 27, 1997, the Circuit Court issued its Order Denying Motion for Reconsideration and to Amend. This matter has, therefore, been set for hearing August 19 and 20, 1998.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record

of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183(2), Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information.

Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.

- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting confidential files.

IV. POST-HEARING PROCEDURES

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of most of the witnesses to be sponsored by the parties and Staff has been prefiled. There are, however, certain witnesses sponsored by TSI that do not have prefiled testimony. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon

insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Mary Jo Daurio	Transcall	2
Douglas Metcalf	Transcall	2 and 3
Joel Esquenazi	TSI	2 and 3
William Shulman	TSI	2
Joseph Holop * ¹	TSI	2
Ruddy McGlashan*	TSI	2
David Resposo*	TSI	2

¹* There is no prefiled direct testimony on file for these witnesses. TSI reserves the right to call these witnesses in its case-in-chief as current or former employees of Transcall. TSI also has stated its intention to submit the depositions of these witnesses should the witnesses be unavailable to appear at the hearing.

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
Joseph Signorelli*	TSI	2 and 3
Brian Sulmonetti*	TSI	2
Dan Merritt*	TSI	2 and 3
Ray Yeager*	TSI	2 and 3
<u>Direct and Rebuttal</u>		
Kathy L. Welch	FPSC	2 and 3
<u>Rebuttal</u>		
Mary Jo Daurio	Transcall	2
Douglas Metcalf	Transcall	2 and 3
Dennis Sickle	Transcall	2

VII. BASIC POSITIONS

TRANSCALL:

Transcall provided billing and provisioning services to TSI pursuant to the terms of the July 7, 1989 Agreement, the modifications agreed to by both parties, and the applicable tariff provisions. The billing and provisioning of services provided to TSI, for itself and its customers, was timely and generally accurate. Transcall freely gave TSI credits for disputed issues. The cumulative credits TSI received from 1989-1992 exceeded the total credit evidence provided by TSI as well as any billing errors that occurred from time to time including those that resulted from system limitations. After accounting for all credits, payments, and other factors, TSI still owes Transcall at least \$659,992.88 in outstanding receivables.

TSI: TSI was over billed by Transcall in the amount of \$468,324.24.

STAFF:

Staff is not a party to, and has no substantial interest in, this proceeding. Staff's role is generally to assure that there is a complete record for consideration by the Commissioners. Staff's positions set forth herein are preliminary pending the outcome of the hearing.

Based upon the testimony and exhibits filed by Staff witness Welch, it appears that Telus/Transcall improperly billed TSI in excess or violation of the contract between the parties. According to Staff witness Welch, however, it appears that any amount overcharged by Telus/Transcall was offset by credits and discounts provided by Telus/Transcall to TSI. Thus, based upon Staff witness Welch's testimony and Exhibit KLV-1, it appears that TSI owes Transcall \$501,369.

VIII. ISSUES AND POSITIONS

LEGAL

ISSUE 1: Does the Commission have jurisdiction over the disputes arising out of the Telus/TSI contract?

POSITION

TRANSCALL:

Yes. Independent of any referral from the Circuit Court, the Legislature has granted to this Commission the exclusive jurisdiction to resolve all matters delegated to it by Chapter 364, Florida Statutes. Thus, all issues involving billing and provisioning of services to TSI and TSI's customers are within this Commission's exclusive jurisdiction and can be addressed only by this Commission. Due to this Commission's exclusive jurisdiction and its authority to resolve all billing and provisioning issues between the parties, no other issues remain for other forums. Upon issuance of the final order in this docket, the Commission should return this matter to the Circuit Court with the instruction that it has resolved all billing and provisioning issues, including those raised by TSI in its Restated Third Amended Answer, Affirmative Defenses, Counterclaims and Third Party Claims.

TSI: No. For the reasons argued extensively by TSI in the early stages of this proceeding, TSI respectfully submits that the Commission does not have such jurisdiction, or should not exercise such jurisdiction, and should return this proceeding to the Circuit Court of the Eleventh Judicial Circuit, in and for Dade County, Florida, where ATC originally brought this case.

STAFF:

Staff has no position at this time.

FACTUAL

ISSUE 2: Did Telus/Transcall improperly bill TSI in excess of or violation of the contract between the parties, including, but not limited to, the following specific alleged violations:

- improperly billing for calls not made, not completed, that were busy, or had bad connections;
- overcharging calls, double billing calls, or billing for the same call in consecutive bills;
- improperly charging TSI for 800 calls;
- billing in increments that were in violation of the contract;
- improper billing for travel cards and canceled accounts; and
- supplying improper and inaccurate billing details to TSI.

POSITION

TRANSCALL:

All billing and provisioning of services to TSI by Transcall was in accordance with the Agreement, the agreed modifications and the applicable tariff provisions except for the two months with undercharged extension errors in TSI's favor (Audit

Disclosure No. 2), the November and December 1990 unbilled minutes adjustment error in TSI's favor (Audit Disclosure No. 4D), and the 9 second error (Audit Disclosure No. 8).

TSI: Yes to all, except billing for 800 calls and travel cards and canceled accounts, as to which TSI has not developed sufficient evidence. Various former and current employees of Telus/ATC/Transcall have described the errors in the computer billing system that caused these errors. The amount of the errors are set forth in the expert report of William Shulman.

STAFF:

Based upon Staff witness Welch's testimony and Exhibit K LW-1, it appears that Telus/Transcall improperly billed TSI in excess or violation of the contract between the parties. Staff's position is preliminary pending the outcome of discovery and the hearing in this matter.

A. If Telus/Transcall improperly billed TSI in excess of or violation of the contract, did the improper billing result in overcharges?

POSITION

TRANSCALL:

Yes, there were some billing errors, most of which were consistent with the applicable tariff or Agreement provisions, but all such billing errors were more than offset by undercharges and credits.

TSI: Yes.

STAFF:

Based upon Staff witness Welch's testimony and Exhibit K LW-1, it appears that the improper billing resulted in overcharges. Staff's position is preliminary pending the outcome of discovery and the hearing in this matter.

- B.** If overcharges occurred, what is the amount of such overcharges, including any applicable interest?

POSITION

TRANSCALL:

TSI was overcharged by \$37,714.59 for the 9 second error. Interest from June 1992 through May 1998 is \$12,688.57, for a total of \$50,403.16. After accounting for credits and other adjustments, however, there were net undercharges to TSI of \$178,756.43. Interest on this amount through May 1998 using the Commission's formula is \$60,140.23.

TSI: The amount is \$468.384.24, excluding interest.

STAFF:

Based upon Staff witness Welch's testimony and Exhibit K LW-1, it appears that the overcharges to TSI were offset by credits and discounts provided by Telus/Transcall to TSI. Staff's position is preliminary pending the outcome of discovery and the hearing in this matter.

- C.** Did TSI make any payments on any amount overcharged under the contract? If so, how much?

POSITION

TRANSCALL:

During the entire period, TSI made payments of \$857,999.83 on total billings of \$1,665,364.41. The accounting for these amounts is further detailed in Exhibit DSM-1 Revised and the testimony of Douglas Metcalf.

TSI: Yes. The amount owed by TSI, net of its payments, would be about \$181,939.

STAFF:

Based upon Staff witness Welch's testimony and Exhibit K LW-1, it does not appear that TSI made any payments on any

overcharged amount. Staff's position is preliminary pending the outcome of discovery and the hearing in this matter.

D. After accounting for any over billing, refunds, settlements or other credits that may be applicable, what amount, if any, does TSI owe Transcall for the services it received?

POSITION

TRANSCALL:

After fully accounting for all transactions between the parties, TSI owes Transcall a total of \$882,038.73, consisting of a principal amount of \$659,992.88 and interest through the end of May 1998 of \$222,045.85.

TSI: Yes. The amount owed by TSI, net of its payments, would be about \$181,939.

STAFF:

Based upon Staff witness Welch's testimony and Exhibit K LW-1, it appears that TSI owes Transcall \$501,369. Staff's position is preliminary pending the outcome of discovery and the hearing in this matter.

ISSUE 3: Did Telus/Transcall improperly bill TSI's customers in excess of or violation of the applicable tariff for intrastate traffic, including, but not limited to, the following specific alleged violations:

- improperly billing for calls not made, not completed, that were busy, or had bad connections;
- overcharging calls, double billing calls, or billing for the same call in consecutive bills;
- improperly charging of 800 calls and 800 customers;
- billing in increments that were in violation of the applicable tariff;

- improperly billing for travel cards and canceled accounts; and
- supplying improper and inaccurate billing details to TSI's customers.

POSITION

TRANSCALL:

Except for the 9 second error, TSI's customers were billed as instructed by TSI. The Staff audit indicates that in some cases TSI improperly instructed Transcall on the billing of TSI customers. Any errors in the billing instructions to Transcall are TSI's responsibility.

TSI: TSI takes no position on these matters at this time, but reserves the right to do so after reviewing evidence developed by the Staff of the Commission.

STAFF:

Staff has no position at this time.

- A.** If Telus/Transcall improperly billed TSI's customers in excess of or violation of the applicable tariff, did the improper billing result in overcharges?

POSITION

TRANSCALL:

No, except for the 9 second error.

TSI: TSI takes no position on these matters at this time, but reserves the right to do so after reviewing evidence developed by the Staff of the Commission.

STAFF:

Staff has no position at this time.

- B.** If overcharges occurred, what is the amount of such overcharges, including any applicable interest?

POSITION

TRANSCALL:

The value of the 9 second error is \$37,714.59 with interest of \$12,688.57. This amount is more than offset however, by credits and other adjustments documented in the testimony of Douglas S. Metcalf, and confirmed in large measure by Staff Auditor Kathy Welch. The offsets are discussed in Issue 2.B above.

TSI: TSI takes no position on these matters at this time, but reserves the right to do so after reviewing evidence developed by the Staff of the Commission.

STAFF:

Staff has no position at this time.

C. Did TSI's customer's make any payments on any amount overcharged? If so, how much was paid and to whom were payments made?

POSITION

TRANSCALL:

TSI's customers paid TSI directly, so any overcharges would have been collected by TSI and not Transcall. Thus, any required refund would need to be made by TSI to its own customers.

TSI: TSI takes no position on these matters at this time, but reserves the right to do so after reviewing evidence developed by the Staff of the Commission.

STAFF:

Staff has no position at this time.

D. After accounting for any overbilling, refunds, settlements or other credits that may be applicable, are

TSI's customers due any refund amount? If so, who should pay the refund and how should it be implemented?

POSITION

TRANSCALL:

TSI may owe its customers a refund for the 9 second error, as well as the \$169,753.25 in credits it received that should have been passed on to its customers.

TSI: TSI takes no position on these matters at this time, but reserves the right to do so after reviewing evidence developed by the Staff of the Commission.

STAFF:

Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Mary Jo Daurio	Transcall	_____ (MJD-1)	July 7, 1989 Telus-TSI Agreement
"	"	_____ (MJD-2)	Documents reflecting payment arrangements.
"	"	_____ (MJD-3)	Examples of service authorization forms.
"	"	_____ (MJD-4)	Requests to the Information Services Department to make changes to billing system.
"	"	_____ (MJD-5)	ATC's June 1990 invoice and July 1990 invoice reflecting reduced rate charged to TSI for travel cards.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Mary Jo Daurio	Transcall	<u> </u> (MJD-6)	A complete set of bills rendered from ATC to TSI including greenbar summaries.
"	"	<u> </u> (MJD-7)	Invoices from ATC to TSI from the first 1989 invoice to the August 1990 invoice showing the initial format used.
"	"	<u> </u> (MJD-8)	The monthly accounting kept for the TSI account.
"	"	<u> </u> (MJD-9)	Correspondence leading up to the agreed payment schedule between ATC and TSI.
Mary Jo Daurio	TSI	<u> </u> (MJD-10)	Fax cover sheet and letter from Mary Jo Daurio to TSI regarding payment arrangements 1/12/90
"	"	<u> </u> (MJD-11)	Letter from Mary Jo Daurio to TSI re: payment of past due amount 5/2/90
"	"	<u> </u> (MJD-12)	Letter from Mary Jo Daurio to TSI regarding payment of past due invoices 7/12/90
"	"	<u> </u> (MJD-14)	Letter from Mary Jo Daurio to TSI regarding past due account 6/17/91

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Mary Jo Daurio	TSI	<u>(MJD-15)</u>	Letter from Mary Jo Daurio to Joel Esquenazi acknowledging payment, giving instruction for future payments, with attached letter from Mary Jo Daurio to TSI dated 12/27/89 and statement for service from 11/1/89 - 11/30/89 - 7/29/91
"	"	<u>(MJD-16)</u>	Letters from Mary Jo Daurio to TSI attaching statement for services for 7/10/89 - 8/31/90, invoices for service 9/190 - 6/27/92
"	"	<u>(MJD-17)</u>	Letter from Joel Esquenazi to Mary Jo Daurio regarding billing 2/13/90
"	"	<u>(MJD-18)</u>	Letter from Joel Esquenazi to Mary Jo Daurio enclosing check and discussing inaccurate billing 4/20/90
"	"	<u>(MJD-19)</u>	Letter from Joel Esquenazi to Mary Jo Daurio enclosing payment for March 1990 and discussing incorrect billing 6/17/90
"	"	<u>(MJD-20)</u>	Letter from Joel Esquenazi to Mary Jo Daurio enclosing payment for April and May 1990, discussing incorrect billing 7/16/90

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Mary Jo Daurio	TSI	<u> </u> (MJD-21)	Handwritten letter from Mary Jo Daurio to Joel Esquenazi attaching chart of charges, credits, and payments from 10/89 - 2/91 - 3/13/91
"	"	<u> </u> (MJD-22)	Fax letter and confirmation sheet from Joel Esquenazi stating payment schedule unacceptable 3/13/91
"	"	<u> </u> (MJD-23)	Schedule of payment arrangements through 6/4
"	"	<u> </u> (MJD-24)	Letter and fax cover sheet from Mary Jo Daurio to Joel Esquenazi stating payment schedule unacceptable 3/13/91
"	"	<u> </u> (MJD-28)	Letter from TSI to ATC regarding billing concerns 9/5/91
"	"	<u> </u> (MJD-32)	TSI chart of Deductions and ATC Accounts Bills Incorrect and balance due
"	"	<u> </u> (MJD-33)	Chart of adjustments to accounts
"	"	<u> </u> (MJD-35)	Handwritten note regarding domestic traffic at 1 minute increments and TSI being billed in increments of 6 seconds
"	"	<u> </u> (MJD-36)	Invoices from Telus Communications, Inc.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Mary Jo Daurio	TSI	<u> </u> (MJD-39)	Fax cover sheet and handwritten letter from Joel Esquenazi to Betty De Simone requesting changes to accounts and incorrect billing 6/25/90
"	"	<u> </u> (MJD-40)	Letter from Joel Esquenazi to Mary Jo Daurio regarding erroneous billing by ATC, attaching chart of incorrect invoices and deductions 9/26/90
"	"	<u> </u> (MJD-42)	Letter from Joel Esquenazi to Mary Jo Daurio regarding ATC sending bills, advertising, etc. to TSI clients and transfer of accounts via magnetic tape 7/19/91
"	"	<u> </u> (MJD-43)	Handwritten fax and memo from Cyndi to Betty De Simone regarding TSI clients being billed by ATC 8/13/91
"	"	<u> </u> (MJD-44)	Letters between Mary Jo Daurio and TSI regarding amounts due and billing dispute
"	"	<u> </u> (MJD-45)	Transcript and Exhibits from August 24, 1994 Deposition
Mary Jo Daurio	Staff	<u> </u> (MJD-46)	Transcript and Exhibits from July 29, 1998 Deposition

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Douglas S. Metcalf	Transcall	<u> </u> (DSM-1) Revised	Summary which reflects all of the Transcall billings, TSI payments, credits from Transcall to TSI, and my additional adjustments for the other issues discussed within this testimony.
"	"	<u> </u> (DSM-2)	Documents that reflect TSI agreeing that it would pay Transcall switchless reseller rates starting in March, until TSI could obtain its own Feature Group.
Joel Esquenazi	TSI	<u> </u> (JE-3)	Check to TSI in the amount of approximately \$26,000 as class action settlement
"	"	<u> </u> (JE-4)	Check from TSI to ATC in the amount of \$250,000
William Shulman	TSI	<u> </u> (WS-1)	Curriculum Vitae of William Shulman, C.P.A.
"	"	<u> </u> (WS-2)	Report on overbillings prepared by Lopez Levi & Associates 6/16/98
"	"	<u> </u> (WS-3)	Workpapers of Lopez Levi & Associates
Dennis Sickie	TSI	<u> </u> (DS-1)	Transcript of March 27, 1998 Deposition and Exhibits
"	"	<u> </u> (DS-14)	Letter from Rudolph McGlashan at Telus to Joe Esquenazi proposing service to TSI 6/21/89

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Dennis Sickle	TSI	<u> </u> (DS-15)	Minutes of Special Meeting re: LDA/Teltec Billing Differentials 6/9/88
Brian Sulmonetti	TSI	<u> </u> (BS-4)	Transcall's Response to First Set of Fact Interrogatories 12/11/97
"	"	<u> </u> (BS-10)	Letter from Joel Esquenazi to Ruddy McGlashan regrading TSI wanting to sell base to ATC 10/29/92
"	"	<u> </u> (BS-11)	Memorandum from Ruddy McGlashan to Norman Klugman regarding TSI wanting to sell base to ATC 10/29/92
"	"	<u> </u> (BS-12)	Response to TSI's Third Request for Production of Documents to Transcall and ATC 1/6/98
"	"	<u> </u> (BS-13)	Letter from Richard Alan Harding, ATC, to Joel Esquenazi notifying TSI that ATC is discontinuing service, effective immediately 5/14/92

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Joseph P. Holop	TSI	<u> </u> (JPH-2 RM-7)	Letter from Irwin M. Frost to Rudy McGlashon (sic) of ATC, regarding magnetic billing tapes not containing description of billing tape format with attached list of 800 customers needing to be reactivated, chart of magnetic tape format and chart of standard tape format 6/10/92
Rudy McGlashan	TSI	<u> </u> (RM-2)	Memo from Joel Esquenazi to Mary Jo Daurio dated March 13, 1991
"	"	<u> </u> (RM-3)	Invoice for point to point usage dated August 26, 1991, and letter to ATC from TSI concerning problems with billing dated September 5, 1991
"	"	<u> </u> (RM-4)	Letter to Rudy McGloughlin [sic] of ATC from TSI regarding issues of concern i.e., billing disputes dated 3/18/92
"	"	<u> </u> (RM-5)	Letter to Joel Esquenazi from ATC responding to letter of 3/18/92 regarding billing dispute
"	"	<u> </u> (RM-6)	Letter to Rudy McGlashan of ATC from TSI acknowledging receipt of fax letter requesting meeting on 3/25/92

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination. Also, I note that certain exhibits listed above are not sequentially numbered. They have been reflected in this Order as identified by the parties.

X. STIPULATION

The parties agreed to submit to a mediation session prior to the hearing.

XI. PENDING MOTIONS

A determination on the following motions will be made prior to the August 19-20, 1998, hearing:

TSI's Motion for Enlargement of Time to Comply with Order Of July 15, 1998, filed July 17, 1998, and Transcall's reasserted Motion for Sanctions and Request for Attorney's Fees and Costs, filed July 17, 1998.

XII. RULINGS

Floyd Self, counsel for Transcall, shall be stricken from TSI's witness list. TSI and Commission staff amended their prehearing statements to include certain exhibits contained in Section IX of this Order without objection.

In addition, TSI requested that the following issue be included for consideration in this proceeding:

Whether a negative inference should be drawn against WorldCom/Transcall due to its failure or refusal to provide the raw call detail records of TSI's traffic over its switch.

This issue derives from TSI's Second Motion to Compel Production of Raw Call Detail Records, filed July 23, 1998. TSI's motion has been denied by Order No. PSC-98-1058-PCO-TI, issued August 7, 1998. Therefore, it is not necessary to include this issue for consideration in the proceeding.

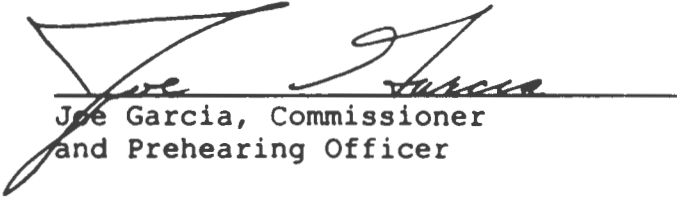
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Finally, I note that the parties will present opening statements of 5-10 minutes at the August 19-20, 1998, hearing.

It is therefore,

ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 12th day of August, 1998.



Joe Garcia, Commissioner
and Prehearing Officer

(S E A L)

BK

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.

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

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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.