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FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

MEMORANDUM

MAY 29, 1997

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (COX) *WPC MCB*
DIVISION OF COMMUNICATIONS (MOSES, WILLIAMS) *WPC*

RE: DOCKET NO. 960217-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST TELECUBA, INC. FOR VIOLATION OF RULE 25-24.4701, FLORIDA ADMINISTRATIVE CODE, PROVISION OF REGULATED COMMUNICATIONS SERVICE TO UNCERTIFICATED RESELLERS PROHIBITED

DOCKET NO. 960295-TI - APPLICATION FOR CERTIFICATE TO PROVIDE INTEREXCHANGE TELECOMMUNICATIONS SERVICE BY WORLD LONG DISTANCE, INC.

AGENDA: JUNE 10, 1997 - REGULAR AGENDA - ISSUE 1 - FINAL AGENCY ACTION (DKT. NO. 960217-TI)

ISSUE 2 - PROPOSED AGENCY ACTION (DKT. NO. 960295-TI)

INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\ 960217SE.RCM

CASE BACKGROUND

Telecuba, Inc. (Telecuba) has been a Florida corporation since March 15, 1995. The sole shareholder and president is Luis Coello. Telecuba is a provider of telecommunications services through the use of prepaid calling cards. Telecuba provided this service by

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purchasing long distance services from World Access Communications Corporation (World Access), holder of Interexchange Carrier (IXC) Certificate of Public Convenience and Necessity No. 2385. Joel Esquenazi is the owner and president of World Access.

Telecuba resold World Access' services to end user customers who purchased a debit card that could be used to access an 800 number to place telephone calls. Telecuba or its agents sold the cards to end user customers for a flat fee for a certain amount of minutes of use. Telecuba did not have an IXC certificate giving it authority to resell such intrastate services in Florida. World Access purchased the network time for the 800 access numbers at a wholesale rate from AT&T. World Access thereby had control over the numbers' use and resale to other telecommunications companies and the general public.

In early December, 1995, Mr. Coello contacted our staff several times by telephone regarding his complaint that World Access had disconnected the 800 access numbers that Telecuba was using to provide its prepaid calling service. Telecuba was not able to get World Access to reconnect the numbers and unable to get AT&T to reassign the numbers to Telecuba. Carlos Rodriguez, a World Access representative, communicated to staff that Telecuba was disconnected because of its failure to fulfill its business obligations. As a result, end users who had purchased debit cards were not able to complete telephone calls and receive the telephone service for which they had already paid. The companies have been unable to resolve their differences.

By Order No. PSC-96-0630-FOF-TI, issued May 10, 1996, the Commission initiated proceedings to require Telecuba why the Commission should not fine Telecuba for violation of Rule 25-24.470, Florida Administrative Code, certificate of public convenience and necessity required. The Commission also ordered Telecuba to show cause why it should not make refunds to customers for each debit card sold equal to the amount of purchase or equal to unused long distance service. Further, the Commission ordered Telecuba to show cause why it should not run a notice in the local media in the area where the cards were sold stating how refunds may be obtained. On May 30, 1996, World Access filed its Answer to Order to Show Cause and Petition for Formal Proceeding, and the matter was set for hearing on May 28, 1997.

On May 8, 1997, Telecuba submitted a written proposal to the Commission to contribute \$7,000 to the State of Florida General

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Revenue Fund in lieu of the Commission continuing the show cause proceeding. (Attachment A). Telecuba also agreed to provide the Commission staff with the documentation requested in Staff's First Set of Requests for Production of Documents, including documentation supporting any refund Telecuba had provided to its customers possessing non-working debit cards. Finally, Telecuba's proposal requests that the Commission staff promptly process the application of Mr. Coello's corporation, World Long Distance, Inc., for authority to provide intrastate, interexchange telecommunications service in Florida. Staff has previously withheld processing this application due to the pending show cause proceeding against Mr. Coello's company, Telecuba. Therefore, staff believes that the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept Telecuba, Inc.'s proposed settlement offer in lieu of continuing THE show cause proceeding against the company for violation of Rule 25-24.470, Florida Administrative Code, certificate of public convenience and necessity required?

RECOMMENDATION: Yes. The Commission should accept Telecuba Inc.'s proposed settlement to pay a \$7,000 contribution to the Commission to be deposited in the Florida General Revenue Fund and to provide written verification of a refund to the affected customers within 30 days from the date the Order becomes final. (COX)

STAFF ANALYSIS: Telecuba has cooperated with the Commission staff in an effort to resolve the areas in dispute and to refund the affected customers. In the Direct Testimony of Telecuba president, Mr. Coello, and Telecuba's Responses to Staff's Request for Production of Documents, Telecuba has provided staff with written verification that a refund of \$12,055.00 has been made to its customers who had non-working cards. World Access has provided a call detail records summary that shows the total amount of unused time on the Telecuba cards. (Attachment B) This information indicates a credit balance of \$5,994.20 remaining on the non-working Telecuba cards. Telecuba also has provided written verification of its placement of advertisement in the local media in the area where the cards were sold indicating how customers who possess non-working cards can obtain a refund. Telecuba has provided similar information to merchants who sold the Telecuba cards in order to notify the affected customers.

The Commission also intended to address the certification requirement issue in this show cause proceeding. In Telecuba's proposed settlement (Attachment A), the company offered to pay a \$7,000 contribution into the State of Florida General Revenue Fund and to verify in writing its refund to the affected customers. The proposal also explained why the Commission should not require Telecuba, as it presently operates, to obtain an IXC certificate from the Commission. Staff believes that Telecuba presently operates purely as a marketer and distributor of the debit cards and not as a reseller of telecommunications services. Therefore, we do not believe that the Commission should require Telecuba to obtain an IXC certificate. Accordingly, staff recommends that the \$7,000 payment should be accepted and forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue

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Fund pursuant to Section 364.285(1), Florida Statutes. The \$7,000 should be remitted within 30 days of the date the Order becomes final.

In previous dockets involving companies operating without a certificate, fines and settlements have ranged up to \$40, 714. In this case, a \$7,000 contribution appears reasonable. Telecuba has cooperated with the Commission, refunded the affected customers, and intends to comply with all Commission rules and orders in the future. Many of the cases where greater fines were levied or higher settlements were proposed involved companies that could not be located and did not respond to Commission staff inquiries. Therefore, staff believes that the settlement proposal of a \$7,000 contribution is appropriate.

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ISSUE 2: Should the Commission grant World Long Distance a certificate to provide statewide interexchange telecommunications service within the State of Florida as provided by Section 364.377(3), Florida Statutes?

RECOMMENDATION: Yes. World Long Distance should be granted,
Florida Public Service Commission Certificate No. 4459
(WILLIAMS)

STAFF ANALYSIS: Section 364.337(3), Florida Statutes reads as follows:

The commission shall grant a certificate of authority to provide intrastate interexchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area to be served.

World Long Distance filed an application with this Commission on March 6, 1996, to offer interexchange telecommunications service as a reseller in Florida. The company has sufficient managerial and technical capabilities in the provision of telecommunications service. A review of World Long Distance's financial capability by the Division of Auditing and Financial Analysis indicates that the application appears to meet the requirements of Section 364.337(3), Florida Statutes.

Therefore, staff recommends that the Commission grant World Long Distance a certificate to provide interexchange telecommunications service.

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ISSUE 3: Should Docket 960295-TI be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the Commission's Proposed Agency Action files a protest within 21 days of the issuance date of the order, this docket should be closed. (COX)

STAFF ANALYSIS: This docket should be closed, if no person whose substantial interests are affected by the Commission's Proposed Agency Action in Issue 2 files a protest within 21 days of the issuance date of the order.

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ISSUE 4: Should Docket No. 960217-TI be closed?

RECOMMENDATION: Yes, Docket No. 960217-TI should be closed with the approval of staff's recommendation on Issue 1 and receipt of Telecuba's contribution of \$7,000 to the General Revenue Fund within 30 days of the date the order becomes final. (COX)

STAFF ANALYSIS: If the Commission approves staff's recommendation on Issue 1, upon receipt of Telecuba's contribution of \$7,000 to the General Revenue Fund within 30 days of the date the order becomes final, this docket should be closed.

05/08/97 THU 17:08 FAX 202 687 8543

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LORETTA J. BARGIA

DEBRA J. INQUIRE

JOSHUA W. PERRIN

*** NO FAX ONLY

** FAX ONLY

*** BY AIR AND BY FAX ONLY

**** NO FAX ONLY

May 8, 1997

VIA FAX AND VIA OVERNIGHT MAIL

William Cox, Esq.
Staff Counsel
Florida Public Service Commission
2450 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 960217-In re initiation of show cause proceedings
against Telecuba, Inc. for violation of Rule 25-24.470 F.A.C.,
Certificate of Public Convenience and Necessity Required

Dear Mr. Cox:

Pursuant to our telephone discussion earlier today, here is Telecuba, Inc.'s proposal for settling the above-captioned show cause proceeding. The terms of the settlement proposal are as follows:

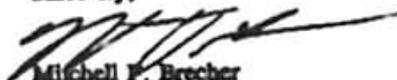
1. Telecuba will make a voluntary contribution in the amount of seven thousand dollars (\$7,000.00) to the Treasury of the State of Florida;
2. The order to show cause will be dismissed and the proceeding will be terminated without any finding being made as to whether Telecuba violated any provision of Florida law or any regulation of the PSC, and without Telecuba admitting to any such violation;
3. The application of World Long Distance, Inc. for authority to provide intrastate telecommunications service in Florida (Docket No. 960295-TI, filed March 6, 1996) will be promptly processed by the PSC Staff and staff will recommend to the Commission that the application be granted upon completion of processing and a determination that World Long Distance is qualified to be awarded authority to provide intrastate service.

William Cox, Esq.
May 8, 1997
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During our telephone conversation, you asked for a factual explanation as to why it would not be necessary for Telecuba to be an authorized telecommunications company. As you are aware, both Telecuba and World Long Distance are owned by Mr. Luis Coello. Telecuba was established as a company which markets and distributes prepaid calling cards. World Long Distance was established to be a provider of telecommunications services, i.e., an interexchange carrier. Telecuba calling cards entitle cardholders to specified amounts of calling time using World Long Distance service. World Long Distance sets the price for the calls, files and maintains the tariffs with the Federal Communications Commission and (upon authorization by the PSC) with the PSC setting forth the rates, terms and conditions of service; provides customer service, and holds itself out to the public as the provider of telecommunications services. World Long Distance operates and maintains a network comprised of leased facilities and resold services. World Long Distance, not Telecuba, acquires telecommunications service capacity from underlying vendors. Moreover, World Long Distance plans to provide telecommunications services to customers other than holders of Telecuba calling cards. In this regard, it will provide telecommunications service for use with other prepaid calling cards, including cards issued by companies not affiliated with Mr. Coello.

I hope that you will agree that the above proposal represents a fair resolution of the Telecuba matter which will obviate the need for time-consuming and costly litigation. I look forward to discussing this proposal with you and your colleagues.

Sincerely,



Mitchell F. Brecher

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MAY-13-87 18:23 FROM KATE KUTTER HAIGLER

ID:8842241247

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MAY-13-'97 TUE 12:27 ID:WORLD ACCESS COMM CO TEL NO:305 577-9774

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AFFIDAVIT OF CARLOS A. RODRIGUEZ

STATE OF FLORIDA)
) ME
COUNTY OF DADE)

I, Carlos A. Rodriguez, do hereby confirm, depose and say that:

I am an individual in excess of 21 years and make this statement of my free will and volition. I work for World Access Communications Corp., 1101 Brickell Avenue, Suite 200, Miami, Florida 33131.

On May 13, 1997, acting on the instructions of Joel Esquenazi, President of WACC, I caused to be made an analysis of the telephone records available to me relating to the sale of pre-paid telephone cards by TeleCuba.

The records reviewed consisted of four volumes of records covering approximately 8434 Telecuba prepaid cards. Of these cards, 6627 or 78% had been completely used. Further, an additional 1285 cards or an additional 15% of these cards had less than \$2.00 in value remaining. The total value of all of the remaining cards of which WACC has records is \$5994.20.

A complete analysis of the records available to me is attached hereto as Exhibit 1.



Carlos A. Rodriguez

BEFORE ME, the undersigned authority, on May 14, 1997 personally appeared Carlos A. Rodriguez, who produced license as identification, who after first being duly sworn, deposes and says that he has read the foregoing and that same is true and accurate to the best of his knowledge and belief.


Notary Public
State of Florida at Large
My commission Expires: _____

VOLUME 1
 Number of Cards Outstanding by Card Value

Total Cards	\$0.00 Value (used up)	\$0-\$1.00	\$1.00-\$2.00	\$2.00-\$5.00	\$5.00- \$10.00	\$10.00- \$20.00	\$20.00 and up	\$ Total Remaining
2470	1797	282	210	71	43	60	7	2117.50

VOLUME 2
 Number of Cards Outstanding by Card Value

Total Cards	\$0.00 Value (used up)	\$0-\$1.00	\$1.00-\$2.00	\$2.00-\$5.00	\$5.00- \$10.00	\$10.00- \$20.00	\$20.00 and up	\$ Total Remaining
2996	2381	168	128	37	36	41	5	1391.67

VOLUME 3
 Number of Cards Outstanding by Card Value

Total Cards	\$0.00 Value (used up)	\$0-\$1.00	\$1.00-\$2.00	\$2.00-\$5.00	\$5.00- \$10.00	\$10.00- \$20.00	\$20.00 and up	\$ Total Remaining
1281	1174	171	103	56	28	39	8	\$1511.99

VOLUME 4
 Number of Cards Outstanding by Card Value

Total Cards	\$0.00 Value (used up)	\$0-\$1.00	\$1.00-\$2.00	\$2.00-\$5.00	\$5.00- \$10.00	\$10.00- \$20.00	\$20.00 and up	\$ Total Remaining
1367	1073	133	88	41	17	30	3	\$973.44