

Handwritten initials: WV, B, R



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED-FPSC
50 AUG - 6 AM 10:55
RECORDS AND REPORTING

DATE: 08/06/98

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING, (BAYB)

FROM: DIVISION OF LEGAL SERVICES (BEDELL) *CB*
 DIVISION OF COMMUNICATIONS (YAMBOR) *Y*
 DIVISION OF CONSUMER AFFAIRS (JOHNSON) *W*

RE: DOCKET NO. 980897-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST LEAST COST ROUTING, INC. D/B/A LONG DISTANCE CHARGES INC. FOR VIOLATION OF RULE 25-4.118, FLORIDA ADMINISTRATIVE CODE, INTEREXCHANGE CARRIER SELECTION

AGENDA: 08/18/98 - REGULAR AGENDA -PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980897TI.RCM

CASE BACKGROUND

On February 27, 1996, the Commission granted Least Cost Routing, Inc. D/B/A Long Distance Charges (LDC) certificate number 4402 to provide intrastate interexchange telecommunications service.

Thereafter, from March 26, 1996, through July 15, 1998, the Commission's Division of Consumer Affairs received 279 consumer complaints against LDC. At least 68 of these were closed by the Division of Consumer Affairs, with concurrence by telecommunications staff, as unauthorized carrier change (slamming) infractions in apparent violation of Rule 25-4.118, Florida Administrative Code.

DOCUMENT NUMBER-DATE
08337 AUG-6 98
FPSC-RECORDS/REPORTING

It appears that LDC is submitting numerous preferred interexchange carrier (PIC) changes with apparent fraudulently obtained customer verbal authorizations. LDC seems to be targeting business customers, speaking to unauthorized company employees and misrepresenting themselves using various other company names.

In light of the numerous complaints received from consumers, and the company's unsupported claims of customer third party verification, it appears that LDC has violated Commission rules and has not established sufficient safeguards to protect consumers from unauthorized carrier changes. Therefore, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order LDC to show cause why it should not have Certificate Number 4402 canceled or be fined \$10,000 per violation for a total of \$680,000 for failure to comply with Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection?

RECOMMENDATION: Yes. The Commission should order LDC to show cause in writing within 20 days of the effective date of the order why it should not be fined \$10,000 per violation for a total of \$680,000 or have its certificate canceled for failure to comply with Rule 25-4.118, Florida Administrative Code. Any collected fine monies should be forwarded to the Office of the Comptroller for deposit in the state General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. (Yambor)

STAFF ANALYSIS: The Division of Consumer Affairs received its first slamming complaint against LDC on March 26, 1996. Since that time, the Division of Consumer Affairs has closed a total of 68 consumer complaints against LDC as unauthorized carrier change (slamming) infractions through July 15, 1998. LDC responded to some of the slamming complaints by stating that it received third party verification authorization.

Rule 25-4.118 (2) (d), Florida Administrative Code, requires.

(D)Ballots or letters will be maintained by the IXC for a period of one year

Rule 25-4.118 (6)(a) and (b), Florida Administrative Code, requires that the IXC shall provide the following disclosures when soliciting a change in service from the customer:

(a) identification of the IXC

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

Examples of complaints received from consumers include the following:

On December 17, 1997, Ms. Betty J. Hutchinson sent Consumer Affairs a written complaint that LDC had called, identified itself as Sprint, and offered a discount if she would keep her local service with Sprint. Ms. Hutchinson asked if anything would change in her service (both local and long distance) and the reply was no. This is an apparent violation of Rule 25-4.118 (6)(b), Florida Administrative Code. The next month, she discovered her long distance carrier was changed to LDC. Ms. Hutchinson asserts she authorized no one to change her long distance carrier. (Attachment A, Pg. 6)

On February 12, 1998, William Koprowski, on behalf of his company, B&T Molded Plywood, reported his company's long distance carrier had changed. Mr. Koprowski asserts the long distance carrier was changed without his knowledge. Additionally, Mr. Koprowski discovered two weeks later that his private residence long distance carrier was switched to LDC without his knowledge. (Attachment B, Pg. 7)

On February 25, 1998, Ms. Raquel Hernandez, for her company McGaw Export, Inc., filed a complaint with the Commission stating she had been slammed. Someone from LDC had called her, identified themselves as a BellSouth employee, and offered a discount of 20% if she stayed with them as their long distance carrier. (Attachment C, pp. 8,9) All she had to do was verify all questions. Ms. Hernandez's long distance carrier was switched to LDC. LDC's response admitted that Ms. Hernandez was misled. (Attachment D, pp 10,11)

On March 20, 1998, Mr. Dennis Pirtle, owner of Pirtle Insurance Agency, received a telephone call from John, who identified himself as a BellSouth employee, and offered a discount on Mr. Pirtle's long distance charges. The discount plan was called the Least Cost Routing Plan. The next month, Mr. Pirtle's carrier was changed. Mr. Pirtle asserts he did not authorize LDC to be his long distance carrier. (Attachment E, Pg. 12)

DOCKET NO. 980897-TI
DATE: August 6, 1998

On May 15, 1998, William and Gayle Keen made a complaint to Consumer Affairs asserting their long distance carrier had been changed without authorization. They stated they had never heard of LDC nor had they authorized them to change their carrier. The Keen's wrote a letter to the FCC demanding fraud protection. (Attachment F, Pg. 13)

The Division of Consumer Affairs requested third party verification [LOA's or Tapes] on each of these complaints. None were provided. Failure to maintain LOA's is an apparent violation of Rule 25-4.118 (2) (d), Florida Administrative Code. Further, since some customers allege that LDC did not identify itself or the intent of its call, these complaints give the appearance that LDC is in apparent violation of 25-4.118 (6) (a) and (b), Florida Administrative Code, and is operating in a willful and deceptive manner. Accordingly, by Section 364.205, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each day a violation continues, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Based on the number of complaints received by the Division of Consumer Affairs, and the 68 complaints closed by the Division of Consumer Affairs as unauthorized carrier change infractions (slamming), staff believes there is sufficient cause to order LDC to show cause in writing within 21 days of the effective date of the order why it should not be fined \$10,000 per infraction for a total of \$680,000 or have its certificate canceled for its apparent violations of Rule 25-4.118, Florida Administrative Code.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, then LDC will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have its certificate canceled. If LDC timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If LDC does not respond to the Commission's Order to Show Cause, the fines should be assessed. While staff does not recommend in Issue 1 that

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DATE: August 6, 1998

LDC's certificate be canceled for slamming violations at this time, staff does recommend that if LDC fails to respond to the Order to Show Cause, and the fines are not received within five business days after the expiration of the show cause response period, LDC's certificate should be canceled and this docket closed administratively. (Bedell)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, then LDC will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fired in the amount proposed or have its certificate canceled. If LDC timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If LDC does not respond to the Commission's Order to Show Cause, the fines should be assessed. While staff does not recommend in Issue 1 that LDC's certificate be canceled for slamming violations at this time, staff does recommend that if LDC fails to respond to the Order to Show Cause, and the fines are not received within five business days after the expiration of the show cause response period, LDC's certificate should be canceled and this docket closed administratively.

198326

December 17, 1997

Florida Public Service Commission
Division of Consumer Affairs
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0865

TO WHOM IT MAY CONCERN:

We were contacted by Least Cost Routing (aka OAN) P. O. Box 15047, Santa Anna, Ca. 92735. They identified themselves as Sprint on behalf of our local service. They said they were offering a discount, if we would leave our local service with Sprint. They were asked specifically if our long distance carrier or local carrier would change and they said absolutely not. We were very surprised when our bill arrived and our long distance service had been switched to OAN and the rate per minute was almost double our rate with Sprint. The rate went from .100 to .180 per minute. We have been switched back to Sprint but our calls to Least Cost Routing to speak to a supervisor about switching fee and nvr charges per minute have fallen on deaf ears and not been returned. Thusoforo, we would like to file a formal complaint against Least Cost Routing. Any help you could be would be gratly appreciated.

Sincerely,

B. J. Hutchinson
5340 S. E. 24th St.
Ocala, Fl. 34471

352-624-0407

9 FEB 98

204 0361

DEAR ELLEN —

HERE ARE DOCUMENTS YOU REQUESTED REGARDING
MY COMPLAINT AS TO MY LONG DISTANCE CARRIER
BEING CHANGED WITHOUT MY KNOWLEDGE OR AUTHORIZATION.

HOPEFULLY SOMETHING WILL BE DONE TO BRING CHARGES
AGAINST THE OFFENDERS. THEY ARE STEALING
MONEY FROM AT&T, AND SHOULD BE ACCOUNTABLE.

SINCERELY,

William Korowski

WILLIAM KOROWSKI
7370 SW 106TH ST
OCALA FL 34476

352-873-9419 (RESIDENTIAL LINE)
352-873-6792 (BUSINESS LINE)



205338 I

MCGAW EXPORT, INC

4918 S.W. 74 COURT
Miami, Florida 33155
Tel : 305-663-2129
Fax: 305-663-1843

FAX TRANSMISSION COVER SHEET

Date: February 18, 1998
To: Division of Consumer Affairs
Fax: 1-800-511-0809
Sender: Raquel Hernandez

YOU SHOULD RECEIVE 15 (including cover sheet) PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL 305-663-2129

Dear Division of Consumer Affairs ;

I called yesterday and I spoke with someone there, and he told me to send copy of the bill that I have question with. But I want to inform you how this matter happen.

In November 1997, I had someone from Leasing Cost Routing calling my company, that person told me that she was from BellSouth Co., she told me that BellSouth was calling all their customer to give them a 20% discount so we could stay with them, because At & T was going to become like BellSouth and BellSouth did not wanted to lost their customers. She told me to answer some questions and them, her supervisor was going to call me to verified all the answer I gave her. Five minutes past and the supervisor called me, and I answered all her questions. Then in January I received a bill from BellSouth that show \$273.92 of Long Distance calls, that is when I called OAN and they told me about Lease Cost Routing. When I called Lease Cost Routing they told me that they had my voice taped, when I spoke

McGaw Export, Inc.
page 2

with the supervisor that called me on November, 1997. That is when I told Bell Anthaul, if they had the other recording when the other salesperson told me that she was representing BellSouth.

So what I had done with this company, I had faxed all the bills that I had received from them. Yesterday I called them again and I told them that I need it to have an answer regarding this problem. The person that took my phone call, she harass me again, telling me that the company had my voice taped, when I told them to make the switch. Then late last night Diana Riens called me at home to inform me that Leasing Cost Routing was going to issue a check for the amount of \$1,345.00 payable to BellSouth within 15 days.

I will like to know if this complain can be sent to the F.C.C. also. I don't want this to happen to any other person, because they also did the same thing to my personal telephone, but thank God my long distance calls are very small, that is why I paid it and I did not complain.

Sincerely Yours

Raquel Hernandez

P.S. I am enclosing also copy of all my long distance calls.

ATTACHMENT D
DOCKET NO. 980897-TI
August 6, 1998

LCR LEAST
COST
ROUTING

March 12, 1998

Ms. Ellen Plendl
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee FL 32399

Re: McGaw Export, Inc. Request No: 2053381

Dear Ms. Plendl,

In response to the above-mentioned Informal Complaints, Least Cost Routing ("LCR") has investigated the circumstances surrounding this customer being provisioned on LCR's long distance plan.

After a thorough investigation, we have ascertained that, on November 24, 1997, one of our sales representatives spoke with Ms. Raquel Hernandez. According to the salesperson, Ms. Hernandez agreed to use our long distance plan, and her call was transferred to a third party verification company which received Ms. Hernandez' authorization on tape. On this tape, Ms. Hernandez acknowledged that she was authorized to make changes on the phone service, that she understood how the Least Cost Routing plan functions, and that Least Cost Routing had her authorization to process the change.

On March 10, 1998, I, Mr. Stephen Ashworth, contacted Ms. Hernandez to see how we could resolve this situation. Ms. Hernandez informed me that she had been misrepresented and that the representative told her there would be no change to her long distance carrier and that LCR's plan was a Bell South plan.

After a lengthy conversation Ms. Hernandez has agreed that if all calls are rerated to the rate of her previous carrier she will consider this matter as being resolved. The total credit is \$1417.83 which will be sent to Ms. Hernandez in the form of a check made payable to her local telephone company, Bell South within the next 7 to 14 days.

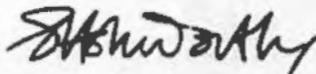
Misrepresentation of our service is not a practice LCR condones, in any way, shape, or form and due to the nature of this complaint, I have contacted the agency that submitted Ms. Hernandez's account to LCR for provisioning, and have requested that the sales representative be terminated immediately.

Ms. Plendl
Florida Public Service Commission
Page II

LCR would like to apologize for any inconvenience we may have caused and I have given Ms. Hernandez my direct telephone number so that, should she need any assistance or future adjustments she may call me directly.

If you have any further questions or concerns, please do not hesitate to call me at 800-926-6566.

Sincerely



S. Ashworth

cc: Ms. Raquel Hernandez
Mc Gaw Export, Inc.
4918 SW 74 Court
Miami FL 33155

2082647

DENNIS D PIRTLE IVS AGENCY, INC.
Auto-life-health-home and Business
6159 LAKE WORTH ROAD SUITE 1, LAKE WORTH, FL 33463
TOL. FREE # 1-888-200-7575 PHONE (561) 968-1729 FAX (561) 433-0161

March 20, 1998

TO: PUBLIC SERVICE COMMISSION
RE: SLAMMING OF MY PHONE NUMBERS

ON JANUARY 27TH, 1998 I RECEIVED A PHONE CALL FROM "JOHN" ADVISING ME THAT HE WAS WITH BELLSOUTH PHONE COMPANY...HE TOLD ME THAT BELLSOUTH COULD NOW PUT MY LONG DISTANCE BILLING FROM USLD ON MY BELLSOUTH BILLING THUS MAKING IT SIMPLER FOR ME..IN ADDITION, THEY WOULD DISCOUNT BOTH THE LONG DISTANCE BILLING AND THE LOCAL SERVICE BY 20%...WHEN I ASKED HIM WHY, HE SAID THAT DUE TO COMPETITION IN THE LOCAL SERVICE MARKET, THEY WERE OFFERING GOOD LONG TIME CLIENTS LIKE ME THE SERVICE IN ORDER TO KEEP ME AS A CUSTOMER.

I TOLD HIM TO CALL ME BACK LATER AND I CALLED BELLSOUTH TO SEE IF THE OFFER WAS BOGUS OR NOT...THE SERVICE PERSON THERE TOLD ME THAT THEY DID NOT KNOW IF THE OFFER WAS LEGITIMATE OR NOT...THEY GAVE ME NO HELP.

LATER, "LOUIS" FROM THE SLAMMING COMPANY CALLED ME BACK. HE ASSURED ME THAT THE PROGRAM WAS A LEGITIMATE PROGRAM FROM BELLSOUTH AND HE WORKED FOR BELLSOUTH..THE NAME OF THE DISCOUNT PROGRAM WAS "LEAST COST ROUTING PLAN" AND WAS INDEED FROM BELLSOUTH...

TODAY ON MY CURRENT BILL, I SAW THAT MY CARRIER HAD BEEN CHANGED..I CALLED BELLSOUTH AND THEY SWITCHED ME BACK TO USLD...

THESE TWO PEOPLE BLATANTLY LIED TO ME THAT THEY WORKED FOR BELLSOUTH..I ASKED BOTH OF THEM TWICE...THE BELLSOUTH PEOPLE TOLD ME THAT "LEAST COST ROUTING PLAN" IS THE NAME OF THE SLAMMING COMPANY...

PLEASE ADVISE ME WHAT TO DO...I WANT TO FILE COMPLAINTS AND PURSUE THIS MATTER...I HAVE BEEN LIED TO AND CHEATED BY THEM...

CONTACT ME PLEASE.

DENNIS D. PIRTLE...PHONE ~~561-968-1729~~

MAR 24 1998

D. Pirtle

CORRECTED

RECEIVED

MAR 23 1998

CMU

William Keen
Gayle A. Keen
6939 W. Country Club Drive
#256
Sarasota, FL 34243
Ph: 941-355-0849
11 May 1998

RECEIVED

MAY 13 1998

Federal Communications Commission
Consumer Complaints
Mail Stop Code 1600A2
Washington, DC 20554

CMU
MAY 14 1998

Gentlemen:

I want to lodge a complaint against telephone companies that pick-up your service without your knowledge.

In reviewing my last phone bill on 5 May 1998, I was shocked to see charges for long distance calls from a company named "Long Distance Charges, Inc.", and billed through a company called "OAN Services". I have never heard of either of these companies and certainly never authorized them to pick-up my calls. This was done totally without my knowledge. I called the number on my phone bill for OAN ((800)483-3200) and objected to these charges. They were very uncooperative. I then called my phone company, GTE at (800)483-3200, and spoke to their customer service person named Linda. She was very helpful and removed the charges from my bill. She informed me that she would send the charges back to OAN. From there it would be my responsibility to fight them. I really have no problem paying for my calls; however; my present carrier, MCI, only charges \$.05 a minute, and that is all I feel I should have to pay.

There should be laws against this type of fraud. It is very expensive for consumers, to say nothing of the time I have spent trying to resolve this. These companies should be forced to reimburse consumers for the time and money spent to stop this type of fraud. I took the time to look at my phone bill and question the charges - how many people, especially the elderly, never bother to look, or even understand what these outlandish companies are doing to them?

I certainly would appreciate anything the FCC can do to stop these practices.

Sincerely,

Mrs. William D. Keen
Mrs. William D. Keen

cc: Public Utility Commission ✓
Tallahassee, FL

ADMINISTRATION
MAIL ROOM
MAY 13 8 38 AM '98
RECEIVED