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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In Re: Initiation of show cause proceedings against Corporate Services Telcom, Inc. for violation of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection.

Docket No. 980950-TI AND REPORTING
Filed: October 13, 1998

CORPORATE SERVICES TELCOM, INC.'S
ANSWER TO SHOW CAUSE ORDER AND PETITION FOR HEARING

Corporate Services Telcom, Inc. ("CST"), by and through its undersigned counsel, subject to its Motion for More Definite Statement also filed this date, and pursuant to Commission Rule 25-22.037(1), Florida Administrative Code, files its answer to the Commission's Order to Show Cause, issued September 23, 1998, in this docket, and its petition for hearing related thereto, and in support thereof states (CST reserves the right to modify or supplement its answer as appropriate upon further ruling by the Commission):

Answer

ACK _____
AFA _____
APP _____
CAF 1 willful violations of Commission Rule 25.4.118, Florida
CMU 1 Administrative Code, relating to conversion of customers' preferred
CTR _____ interexchange carrier (PIC), and proposes that CST be fined
EAG 1 \$550,000.00 for these alleged willful violations.
LEG 5
LIN _____
OPC _____
RCH _____
SEC 1 Order fails to name or identify 50 of the 55 alleged willful

WAS _____
OTH _____

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ERVIN, VARN, JACOBS & ERVIN TALLAHASSEE, FLORIDA 11379 OCT 13 98

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violations. Thus, CST is unable to determine the specific allegations of material fact and law upon which the Commission proposes this enforcement action.

3. The Order is inadequate because it fails to fairly inform CST of the specific elements of the Commission's enforcement action against it.

4. The Order is inappropriate because it appears to be designed, and attempts, to shift to CST the burden of coming forward with evidence and to prove that it has not violated Commission Rules. The Commission has the burden of proving by clear and competent evidence each of the alleged violations.

5. CST has neither refused to comply with nor willfully violated any rule or order of the Commission, including Rule 25-4.118.

6. The Order, as to the five named customer complaints, does not provide sufficient detail or explanation as to why the Commission specifically concludes that each alleged violation is willful.

7. CST denies that it switched the long distance services of Marvin Potter without his authorization and in willful violation of Commission Rule 254-4.118; CST further denies concealing from the customer that he was agreeing to the switching of his long distance carrier.

8. CST denies that it switched the long distance service of Mr. Jimmy Cliff without his authorization and in willful violation of Commission Rule 25-4.118; CST further denies that it failed to

switch back this customer's service or failed to meet Commission requirements for changing carriers.

9. CST denies that it switched the long distance service of Mary E. Riley without her authorization and in willful violation of Commission Rule 25-4.118; CST further denies failing to properly identify itself or misleading this customer.

10. CST denies that it switched the long distance service of Ringo Yeargin without his permission or by deception and in willful violation of Commission Rules; CST further denies failing to produce a verification tape.

11. CST denies switching the long distance service of Nancy Pond without her authorization and in willful violation of Commission Rule 25-4.118; CST further denies failing to produce a third party verification of the transaction.

12. With respect to the remaining 50 alleged unauthorized PIC changes CST denies that it has either refused to comply with or willfully violated any rule or order of the Commission, including specifically Commission Rule 25-4.118.

13. CST admits that its corporate registration was administratively revoked by the Florida Secretary of State briefly in September 1997, but affirmatively alleges that such revocation has been rescinded and that CST is fully registered and in good standing with the Florida Secretary of State.

14. CST affirmatively alleges that any delay in providing evidence of third party verification of PIC changes to the

Commission was due to administrative oversight and not intentional or willful.

15. CST has neither refused to comply with nor willfully violated any rule or order of the Commission as contemplated by Section 364.285, Florida Statutes.

16. In each instance identified in the Order CST met the requirements of Commission Rule 25-4.118 in that it obtained diligently and in good faith the type of customer confirmation required by the Rule.

17. The action contemplated by the Commission in the Order is arbitrary, capricious and discriminatory in that it is based on the number of complaints received, without taking into account the size or volume of overall activity.

18. For the reasons set forth in CST's motion for more definite statement, which is incorporated by reference, the allegations of the Order are insufficient to place CST fully on notice of the charges against it.

19. With respect to the Commission's characterization of an unauthorized PIC conversion as a violation of Commission Rule 25-4.118 that "continues" as contemplated by Section 364.285, Florida Statutes, CST denies this statutory interpretation and alleges that the Commission's declaration of this interpretation amounts to an unlawful application of non-rule policy.

20. With respect to the Commission's characterization of "willful" as intended by Section 364.285, Florida Statutes, to mean any "willful act", whether or not there was a willful intent to

violate a rule, Order or provision of Chapter 364, Florida Statutes, CST denies that the statutory construction claimed by the Commission is valid. Specifically, CST denies that the Legislature intended "willful" to mean an intent to do an act as opposed to the intent to do an act coupled with the purpose and intent to disobey the rule, and further states that if this were the case, there would be no reason for the Legislature to have included the word "willful" in the statute at all, because - under the Commission's interpretation - there would be no need to distinguish between those violations that are subject to a penalty and those that are not.

Petition for Formal Hearing

21. CST requests a formal proceeding under Section 120.57(1), Florida Statutes, because this matter involves disputed issues of material fact which must be determined on the basis of an evidentiary record.

22. The agency involved is the Florida Public Service Commission whose address is 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399. The docket number is 980950-TI.

23. CST's name is Corporate Services Telcom, Inc., whose address is 360 Merrimack Street, Building 5, Lawrence, MA 01843.

24. CST's substantial interests will be affected because the Order seeks:

- a) To find CST in violation of Commission Rule 25-4.118, Florida Administrative Code;
- b) To fine CST in the amount of \$550,000.00; and

c) To cancel CST's certificate.

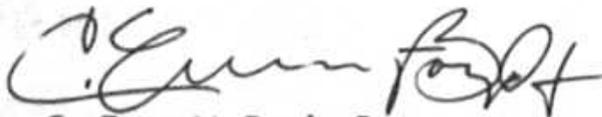
25. Known disputed issues of material fact include the following:

- a) Whether complaints upon which the Order relies are in fact true and accurate and support the actions proposed in the Order;
- b) Whether CST has violated Commission Rule 25-4.118, Florida Administrative Code;
- c) Whether any such violations are willful as contemplated by Section 364.285, Florida Statutes; and
- d) If CST has violated Commission Rule 25-4.118, what is the appropriate penalty.

26. CST alleges that it has not violated Commission Rule 25-4.118, and therefore should not be fined or otherwise penalized.

27. CST requests a hearing in this proceeding pursuant to Section 120.57(1), Florida Statutes.

Respectfully submitted,



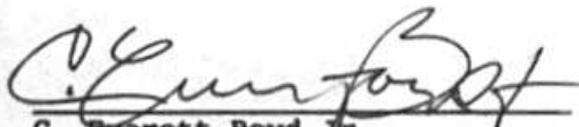
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(850) 224-9135

Attorney for Corporate Services
Telcom, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by hand delivery this 13th day of October 1998, to the following:

Catherine Bedell
Florida Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850


C. Everett Boyd Jr.