

Talbott  
Vandiver

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

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APR 16 1998  
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FPSC - Records/Reporting

M E M O R A N D U M

April 16, 1998

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

FROM: DIVISION OF LEGAL SERVICES (BEDELL, BOWMAN) *CB*  
DIVISION OF COMMUNICATIONS (BIEGALSKI) *KB*  
DIVISION OF CONSUMER AFFAIRS (SMITH) *AS*

RE: DOCKET NO. 971490-TI - INITIATION OF SHOW CAUSE  
PROCEEDING AGAINST EXCEL TELECOMMUNICATIONS, INC. FOR  
VIOLATION OF RULE 25-4.118, FLORIDA ADMINISTRATIVE CODE,  
INTEREXCHANGE CARRIER SELECTION

AGENDA: 04/28/98 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\971490TI.RCM

CASE BACKGROUND

On March 21, 1990, the Commission granted Excel Telecommunications, Inc. (Excel) Certificate Number 2440 to provide intrastate interexchange telecommunications service. Excel reported gross operating revenues of \$73,584,960 and intrastate revenues of \$16,088,967 on its Regulatory Assessment Fee Return for the period January 1, 1997, through December 31, 1997. As a provider of interexchange telecommunications service in Florida, Excel is subject to the rules and regulations of this Commission.

From April 1, 1996, until April 9, 1998, the Division of Consumer Affairs has received a total of 324 complaints against Excel. Of those complaints received, 38 are apparent unauthorized carrier change (slamming) infractions in violation of Rule 25-4.118, Florida Administrative Code. There are numerous additional complaints that are either pending response from the company or closure in the Division of Consumer Affairs.

In 1995, show cause proceedings were initiated against Excel for apparent slamming violations. On March 21, 1996, in Order No.

DOCUMENT NUMBER-DATE

04353 APR 16 98

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PSC-96-0401-AS-TI, the Commission approved a \$10,000 settlement offer in Docket No. 950468-TI. (Attachment A, Pages 8-10)

Excel uses multi-level marketers to obtain new long distance customers. It appears that Excel is submitting numerous preferred interexchange carrier (PIC) changes with forged customer signatures. This problem was identified in the previous docket as well.

Based on the large number of complaints, staff opened this docket to investigate whether Excel should be required to show cause why it should not be fined or have its certificate canceled, pursuant to Section 364.285, Florida Statutes. However, prior to show cause proceedings, Excel submitted an offer to settle the case. (Attachment A, Pages 8-17)

#### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order Excel to show cause why it should not have Certificate Number 2440 canceled or be fined for apparent violation of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection?

RECOMMENDATION: Yes. The Commission should order Excel to show cause in writing within 20 days of the effective date of the order why it should not have Certificate Number 2440 canceled or be fined \$30,000 per apparent violation for a total of \$1,140,000. Said fine is for apparent violation of 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. (Biegalski)

STAFF ANALYSIS: Staff reviewed the numerous complaints received in the Division of Consumer Affairs regarding Excel's alleged slamming infractions. Staff's review has identified complaints from consumers regarding unauthorized carrier changes due to forged LOAs and keypunch errors.

Rule 25-4.118(2), Florida Administrative Code, states in pertinent part,

A LEC shall also accept PIC change requests from a certificated interexchange company (IXC) acting on behalf

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of the customer. A certified IXC that will be billing in its name may submit a PIC change request, other than a customer-initiated PIC change, directly or through another IXC, to a LEC only if it has certified to the LEC that at least one of the following actions has occurred prior to the PIC change request:

(a) the IXC has on hand a ballot or letter from the customer requesting such change;

Staff is concerned that Excel has not taken adequate steps to prevent unauthorized carrier changes and to ensure compliance with the rules of the Florida Public Service Commission.

Examples of complaints received from consumers include the following:

On February 5, 1998, Mr. Jon Wood contacted staff and stated that his long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Mr. Wood. The company considered it to be valid and forwarded it for processing. Staff contacted Mr. Wood on April 14, 1998 in order to verify the LOA. Mr. Wood stated that the social security number listed on the LOA is incorrect and the signature on the LOA is a forgery. (Attachment B, Pages 18-24)

On August 6, 1997, Ms. Nancy Peterson contacted staff and stated that her long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Ms. Peterson. The company considered it to be valid and forwarded it for processing. Staff contacted Ms. Peterson on April 14, 1998 in order to verify the information on the LOA. Ms. Peterson stated that the social security number was incorrect and that the signature was a forgery. (Attachment C, Pages 25-30)

On November 17, 1997, Ms. Betty Smith contacted staff and stated that her long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Ms. Smith. The company considered it to be valid and forwarded it for processing. Ms. Smith informed staff that the signature on the LOA is a forgery. (Attachment D, Pages 31-36)

On April 23, 1997, Mr. Ernie Banks, son of Ms. Syble Banks, contacted staff and stated that his mother's long distance service was switched without authorization. Excel's report stated that the company received an LOA signed by Ms. Banks. The company considered it to be valid and forwarded it for processing. Ms. Banks informed staff that the signature on the LOA is a forgery. (Attachment E, Pages 37-42)

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Excel has not satisfied staff that it is in compliance with the Commission's rules. Accordingly, by Section 364.285, 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, or cancel its certificate, 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).

Staff believes that Excel's apparent conduct in switching PICs without customer authorization has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, Florida Administrative Code, Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as Excel's conduct at issue here, would meet the standard for a "willful violation."

Based on the 38 apparent unauthorized carrier change infractions and Excel's history, staff believes that Excel does not have adequate safeguards to protect consumers from unauthorized carrier changes. Accordingly, staff believes that there is sufficient cause to order Excel to show cause in writing within 20 days of the effective date of the order why it should not be fined \$30,000 per apparent infraction for a total of \$1,140,000 or have its certificate canceled for its apparent violations of Rule 25-4.118, Florida Administrative Code.



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ISSUE 2: Should the Commission accept the settlement offer proposed by Excel Telecommunications, Inc. to resolve the apparent violations of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection?

RECOMMENDATION: No. The Commission should not accept the settlement offer proposed by Excel. (Biegalski)

STAFF ANALYSIS: On February 26, 1998, Excel met with staff and addressed its concerns about the apparent violations. On March 27, 1998, Excel submitted its offer to settle. In its settlement offer Excel agreed to do the following:

- Excel will bring suit against selected Independent Representatives (IRs) if there is a basis in law or equity to maintain a civil action against IRs who forge LOAs. If there is no basis to bring civil action, Excel will determine whether the contract between Excel and the IR can be amended to create such a cause.
- Excel will determine whether data bases are available under public records law or on some more cost-effective basis to cross-verify the LOAs against the social security number or drivers license number.
- Excel will review emerging third party verification (TPV) strategies to ensure that the TPV it uses in relation to Excel's win-back telemarketing program is state of the art.
- Excel will revise training materials to provide even more emphasis on the necessity of accuracy in the completion of LOAs.
- Excel will create an award program that recognizes an independent representative and/or his or her "downline" if they are error free in the completion of LOAs.

In addition, Excel has offered to contribute the following in order to improve the performance of the telecommunications industry as a whole in avoiding unauthorized transfers:

- Excel will sponsor and fund this summer a collaborative industry forum in Tallahassee on various aspects of the problem of unauthorized PIC

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transfers. Excel contemplates that the forum would address as least these topics:

- (a) how to avoid unauthorized transfers through better marketing, training, and materials
  - (b) what the new Commission rules require
  - (c) how to provide better customer service
  - (d) how to work better with the Division of Consumer Affairs
- Excel will produce at its own expense for free distribution to other carriers generic training materials on avoiding slamming.
  - Excel will produce at its own expense for free distribution to other carriers generic training material on resolving consumer complaints and working effectively with Consumer Affairs.

Staff does not support any aspect of Excel's settlement offer. Excel does not state any definite action that it will take to prevent unauthorized carrier changes. In addition, Excel offers no monetary settlement.

This is the second time Excel has been brought before the Commission for slamming problems. From staff's review of the causes of the complaints, it does not appear that Excel has implemented the appropriate managerial procedures to ensure that it has obtained proper LOAs. Therefore, staff believes that the settlement offer is inadequate. Excel's proposal is simply insufficient for the harm to the public interest that Excel's apparent slamming violations have caused. In addition, the monetary settlements accepted in the past have not been of sufficient size to deter slamming. Therefore, it is staff's view that the fine should be greater than those accepted in the past.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, Excel will have 20 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. If Excel timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If Excel does not respond to the Commission's Order to Show Cause, the penalties should be deemed assessed. If Excel 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, Excel's certificate should be canceled and this docket closed administratively. If staff's recommendation in Issue 1 is not approved and the settlement offer is accepted, this docket should be closed. (Bedell, Bowman)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, then Excel will have 20 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 Excel timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If Excel does not respond to the Commission's Order to Show Cause, the fines should be deemed assessed. If Excel 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, Excel's certificate should be canceled and this docket closed administratively. If staff's recommendation in Issue 1 is not approved and the settlement offer is accepted, this docket should be closed.

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March 27, 1998

Mr. Will Cox  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Docket No. 971490-TI

Dear Mr. Cox:

The purpose of this letter is to propose a settlement of the above docket. As such, this communication is privileged and confidential,<sup>1</sup> and nothing herein may be viewed as an admission against interest,<sup>2</sup> or in any way used against Excel if this matter is not settled.

#### I. INTRODUCTION

This docket was recently opened to investigate the circumstances of all the "slamming" complaints against Excel Communications filed with the Commission's Division of Consumer Affairs since April 1996. As I understand, the decision to open the docket was made solely on the basis that since that date there had been 86 consumer slamming complaints against Excel in which the consumer represented that the PIC transfer was unauthorized. It is my further understanding that neither the Communications staff nor the Commission have taken a formal position as to whether any of these complaints amount to a violation of the Commission's rules on PIC changes. And finally, it is my understanding that this docket is an investigation to determine whether enforcement proceedings are warranted, or if some other course of action would be appropriate.

I begin with the above explanation because Excel is not making this settlement proposal to resolve a formal charge of a rule

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<sup>1</sup> Excel is not claiming protection from disclosure under the Public Records law, but rather protection against use of this communication against it if this matter cannot be settled.

<sup>2</sup> More specifically, nothing in this proposal may be viewed as an admission by Excel that it has willfully transferred a PIC without authorization or engaged in any other behavior that would justify sanctions under Section 364.285, Florida Statutes.



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violation, nor because the Commission necessarily will vote to issue formal charges through an order to show cause. Rather, Excel makes this proposal to join with the Commission in its efforts to reduce unauthorized PIC transfers, which are clearly contrary to the public interest. As will be clear from the content of this letter, Excel's proposal here is not a novel step for the company, but rather is consistent with its history of forward looking efforts to improve its own performance in all phases of its business.

Before presenting the proposal proper, it would be useful to address briefly the basic issue that some customers have complained that Excel has transferred their long distance service without authorization, as well as the efforts Excel has taken to avoid such unauthorized transfers.

## II. EXCEL'S EXTRAORDINARY ACCURACY RATE

The Commission's records reflect that since April 1996, 86 consumers have complained that Excel converted their long distance service without authorization. The Commission's records do not reflect, however, how many Florida PIC transfers were made by Excel during that period: approximately 162,000. In other words, Excel has experienced an unauthorized transfer complaint rate of approximately 0.0005, or roughly one-twentieth of a percent, or roughly one complaint out of every 2000 transfers. Although every consumer complaint is important, it is beyond reasonable disagreement that Excel's complaint rate is statistically insignificant.

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One might correctly note that this complaint rate is not the same as the unauthorized conversion rate. This is the "tip-of-the-iceberg" concern: i.e., how does one know that for every complaint of an unauthorized conversion made to the Commission, there are not ten complaints beneath the surface? Assuming for the moment that this were true, two facts remain uncontroversial. First, Excel's error rate remains statistically insignificant, less than one-half of a percent. Second, to the extent unreported complaints are made directly to Excel, the company is obviously doing a good job of addressing the consumer's concerns.

It is just as likely, however, that the reported complaints are not just the "tip of the iceberg." Given the public's sensitivity to unauthorized conversions, consumers are in fact complaining when they feel they have been "slammed." Indeed, the best explanation of this low complaint rate is not that customers are failing to complain, but that Excel is doing an excellent job

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### III. TOTAL COMPANY COMMITMENT TO AVOIDING UNAUTHORIZED TRANSFERS

Excel's accuracy is the result of a total company commitment to avoid unauthorized PIC transfers. Excel demonstrates this commitment in three basic areas: (1) in the design and operation of its PIC transfer system; (2) in the ongoing training of its employees; and (3) the ongoing training of the Independent Representatives (IR) who market Excel services. These are briefly discussed below.

#### A. Design and Operation of PIC Transfer System

Excel is a premier multi-level marketing company, and the heart of its marketing approach is the face to face presentation made by the IR and the almost total reliance on written LOAs for new customers.<sup>4</sup> A critical juncture in the conversion process, of course, occurs when Excel inputs the PIC transfer information into its system. To achieve a high accuracy, Excel uses a true double-entry system to input the ordering data. Specifically, Excel uses two separate operators to input the service request data twice. Any mismatch between the separate entries is automatically identified so that the submission receives further scrutiny.

To complement this double entry system, Excel uses additional procedures to ensure that a valid PIC transfer is submitted to the LEC, as well as to identify and avoid slamming generally. These additional procedures include the following:

##### 1. Commissions Fraud

Typically, commissions earned by new IRs grow in a fairly predictable pattern as the IR and the IR's downline generate increasing levels of revenue from the sale of services. This pattern is called average income progression. Excel identifies IRs who are paid commissions in a manner that does not coincide with Excel's average income progression. IRs with aberrant income progression are investigated by the IR Compliance (IRC) unit along with their respective downlines. The unit validates earned

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of marketing and processing PIC transfer requests.

<sup>4</sup> Occasionally, a customer will call a LEC to request Excel as his or her long distance service provider. Given the reliance on face-to-face selling, the occasional call to a LEC is a rare occurrence.

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commissions and calls customers brought on board by these IRs to confirm they have indeed signed up for Excel service. This process works to reduce significantly the possibility of future slamming violations.

## 2. Report

Excel generates a report periodically that identifies IRs who directly sponsor slammed customers. IRs on this report are canceled by the IRC unit for violating Excel's policy on slamming. The IR are terminated unless they lodge an appeal within 10 days from receiving notice of their cancellation. Excel then conducts a more detailed investigation of the charge.

## 3. Confirmation

Mail Services forwards to the Confirmation Department: 1) a 10% random sample of LOAs; and 2) LOAs that are received in an envelope containing 15 or more LOAs. Confirmation performs the following forms of verification:

- If a SSN is provided, Confirmation checks the SSN to verify if it belongs to the customer listed on the LOA.
- If no SSN is provided or the SSN is not a match, Confirmation will call the customer(s) to verify if they requested Excel's service.

Unconfirmed LOAs are mailed back to the sponsoring IR with a letter stating Excel's inability to confirm the customer(s) request.

Issues that involve customers who did not request Excel's service are forwarded to IRC for investigation and possible termination of the sponsoring IR.

## 4. Exceptions Management

Data Entry receives all LOAs not forwarded to the Confirmation Department. After the customer(s) has been entered into the system, but before provisioning, all customer accounts missing the following criteria are canceled (termination code assigned to accounts missing pertinent information) and forwarded to Exceptions Management:

- NPA/State Mismatch
- No BTN
- Missing name, address, city, state, zip code

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- Missing signature
- Cellular BTN
- Bad NPA
- Non Equal Access Area - blocked

Exceptions Management will use the Internet, CD-ROM software and direct contact with the customer(s) or sponsoring IR(s) to collect/correct the missing information. All accounts that are unable to be corrected remain in a canceled status.

#### 5. Possibly Forged LOAs

LOAs that are possibly forged merit special discussion here. When Excel receives a complaint from a consumer of "service not requested," the possibility of a forgery is raised. Immediately a letter is sent to the IR giving him or her ten days to respond. If no response is received, then the IR's agency relationship with Excel is immediately terminated. If the explanation from the IR is unsatisfactory, the relationship is terminated.

At the same time the letter is being forwarded to the IR, the complaint is referred to a special investigation group that does a data base search of both the IR's "upline" and "downline" to see if there have been any other problems in that "family" of IRs. If so, appropriate action is taken.

Excel has not been content to leave the matter of forgery with simply terminating agency relationship with the IR. If an IR forges an LOA, he or she must be held accountable for the violation of company and regulatory policy. In this respect, Excel's materials make it clear that Excel will cooperate in any criminal or civil enforcement action against the IR by the government.

In Florida, Excel attempted to refer possible forgeries for prosecution in 1995. Specifically, on behalf of Excel I wrote the Attorney General for the State of Florida asking for assistance in prosecuting IRs who forge LOAs. The Attorney General declined to assist, and instead referred counsel for Excel to the Public Service Commission.

#### B. Timely Hiring and Complete Training of TeleServices Representatives (TSRs)

Excel has formalized policies with respect to training its employees. The hiring process has been strengthened to ensure only those people who are well suited to meet the goals of the customer care process are hired. TSRs receive training on what constitutes slamming, how unauthorized switches may occur, and steps to be taken to address the situation. The training program has been



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improved from within the organization and through use of consultants.

#### C. Timely and Complete Training of IRs

Excel has established a formal training system which is available for all IRs. These training programs have been designed to increase uniformity among IRs in the provisioning of Excel services. In addition, the training programs help to ensure that new customer documentation is complete, accurate and authorized and that IRs conduct their Excel business in accordance with management established policies and procedures. The Company conducts audits of training presentations (on an unannounced and anonymous basis) to ensure compliance with the Company policies and procedures with trainers held accountable for the accuracy of the training presentation.

#### IV. CATEGORIES OF PIC TRANSFER COMPLAINTS

Even with the extraordinary effort made by Excel to avoid unauthorized PIC transfers, this Commission has received consumer complaints against Excel alleging "slamming." Generally, the unauthorized transfer complaints are the result of six causes<sup>5</sup>: (1) technical problems; (2) data entry errors; (3) submission errors by customer or IR; (4) inadvertent reactivation after cancellation of account; (5) alleged forgeries; and (6) telemarketing problems. These causes are addressed separately below.

##### A. Technical Problems

Excel uses the facilities of several underlying carriers to

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<sup>5</sup> There actually other categories of causes, but these are areas beyond the reach of Excel. For example, some complaints are the result of the incorrect decision maker signing the LOA (this is sometimes referred to as household disputes) and/or buyer remorse. Also, occasionally complaints are generated LEC requests, i.e., when the LEC advises Excel of a called-in customer request for service. Therefore, whether the transfer of the customer's service is authorized is dependent upon the reliability of the information supplied by the LEC. Also, sometimes Excel receives misdirected complaints where a name or carrier code is similar to Excel's. The body of this letter addresses those areas where Excel believes its efforts can have an effect on reducing complaints about unauthorized transfers.



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provide long distance service to their customers. When Excel elects to change its underlying carrier, then thousands of customers must be transferred or "migrated" from the original underlying carrier to the new underlying carrier. In situations when Excel is not properly notified of a customer's request to cancel, their account remains in Excel's database. Consequently, the customer's account may be included in the migration process. As a result, the customer begins to receive Excel billing again, which appears as if an authorized switch occurred.

**B. Data Entry Errors**

Even with Excel's double entry system and other checks it is possible for the two operators to misread a digit the same way. For example, each operator could enter a "1" instead of a "7."

**C. Submission Errors**

Sometimes the customer or the Excel IR will make a mistake in completing the service request form. For example, numbers are occasionally transposed, or the customer will inadvertently provide a previously held telephone number.

**D. Inadvertent Reactivation**

Until recently, the customer account system would not allow TSRs to correct the cancel code on an account without reactivating it. To reduce Excel's exposure to the unauthorized switching of a customer's long distance service, a system enhancement was put into place in early March to allow TSRs to correct a data entry error on a cancelled account without inadvertently reactivating the account.

**E. Alleged Forgeries**

Occasionally a customer will complain that Excel has converted his or her service without authorization, but Excel will possess a signed LOA that appears to be valid. In these situations, the customer may claim that the IR forged his or her signature. As reflected above, this is a grave charge that Excel takes seriously. The Excel family includes over 150 thousand active IRs who market its services responsibly and ethically. Nothing frustrates Excel more than for an irresponsible IR to betray the trust of the organization by deliberately attempting to cheat both the customer and Excel.

**F. "Win-backs"**

Excel uses its in-house telemarketing group for the limited purpose of attempting to "win-back" former Excel customers. Even

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though the customers are familiar with Excel and even though the re-selection of Excel is verified by an independent third party, occasionally there are complaints that the conversion was unauthorized.

## V. PROPOSED SETTLEMENT

Although Excel is proud of its record in attempting to eliminate problems of unauthorized transfers, it continues to seek ways to improve. In responding to this proceeding Excel would prefer to devote its resources to two objectives: first, improving further its own performance; and second, contributing to the improvement of the telecommunications industry as a whole in avoiding unauthorized transfers. With these objectives in mind, Excel makes the following proposals:

### A. Proposals to Improve Excel Performance

To further improve its own performance in avoiding unauthorized PIC transfers Excel commits to taking the following steps by June 1, 1998:

1. With respect to forgeries, to determine if there is a basis in law or equity to maintain a civil action against IRs who forge LOAs, and if so, to bring suit against selected IRs. If there is no basis to bring a civil action, to determine whether the existing contract between Excel and the IR can be amended to create such a cause.
2. With respect to forgeries, to determine whether data bases are available under public records law or on some more cost-effective basis so that cross-verification of LOAs against social security numbers or drivers license numbers can be performed routinely.
3. With respect to Excel's win-back telemarketing program, to review emerging third party verification strategies to ensure that the TPV it uses is state of the art.
4. With respect to submission errors, to revise training materials to provide even more emphasis on the necessity of accuracy in the completion of LOAS.
5. With respect to submission errors, to create an

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award program that recognizes an independent representative and/or his or her "downline" is error free in the completion of LOAs.

**B. Proposals to Contribute to the Improvement of Industry Performance in Avoiding Unauthorized Transfers**

To contribute to the improvement of the performance of the telecommunications industry as a whole in avoiding unauthorized transfers, Excel commits to taking the following steps by September 1, 1998:

1. To sponsor and fund this summer a collaborative industry forum in Tallahassee on various aspects of the problem of unauthorized PIC transfers. The agenda for this forum would be determined later with the input of the Commission and the industry. Excel contemplates, however, that the forum would address at least the following topics:
  - (a) how to avoid unauthorized transfers through better marketing, training, and materials;
  - (b) what the new Commission rules require;
  - (c) how to provide better customer service; and
  - (d) how to work better with the Division of Consumer Affairs.

The forum would be free to participants and open to all interested persons.

2. To produce at its own expense for free distribution to other carriers generic training materials on avoiding slamming.
3. To produce at its own expense for free distribution to other carriers generic training material on resolving consumer complaints and working effectively with consumer affairs.

Because these proposals are at the preliminary stage, it is difficult to state how much funding these activities will cost. Excel estimates, however, that just the sponsoring the forum and publishing the guide easily could cost more than \$30,000.00. Nevertheless, Excel is excited about the prospect of proceeding along these lines for at least three reasons. First, Excel, like

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other leading carriers, supports the Commission's purpose of eliminating unauthorized transfers to the fullest extent practical. This proposal would allow Excel and other carriers to demonstrate this support in a constructive way that would actually lead to improvement. Second, Excel is proud of its record and believes that it has expertise that would benefit others. And third, there is always room for improvement, and Excel will learn from other carriers ways for it to do even a better job.

If the Commission accepts these proposals as constructive and satisfactory responses to the Commission's concerns in this proceeding, the Commission would agree to close this docket without further proceeding and would agree that this resolution resolves all issues of potential liability for alleged violations of Commission Rule 25-4.118 with respect to consumer complaints received from April 1, 1996, through the date of the agenda conference.

#### VII. CONCLUSION

Excel hopes that the staff and the Commission find this proposal acceptable. If you have any questions about this proposal, please do not hesitate to call.

Sincerely,

*Patrick Knight Wiggins*  
Patrick Knight Wiggins

Name WOOD, J.C.

Company EXCEL TELE COMMUNICATIONS, INC.

Request No. 2033131

Address 151 W. GEORGE AVENUE

Attn. JOEL BALLEW 2033131

By MEP Time 4:39 PM Date 02/05/98

Consumer's Telephone # (407)-645-2895

To CO Time FAX Date 02/05/98

City/Zip HAITLAND 32751 County ORN

Can Be Reached (407)-645-2895

Type S Form INTERNET

Account Number \_\_\_\_\_

Note \_\_\_\_\_

Category \_\_\_\_\_

Caller's Name JON C. WOOD

Informal Conf. \_\_\_\_\_

Infraction LS-13C

Closed by MEP Date 02/25/98

Reply Received T

**CONSUMER REQUEST**

**FLORIDA PUBLIC SERVICE COMMISSION**

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL. 32399-0850  
904-413-6100

PLEASE RETURN THIS FORM WITH REPORT OF ACTION TO:

ELLEN PLENDL

DUE: 02/25/98

Customer states that he was switched from AT&T to Excel without authorization or request. Customer states he has returned to his carrier of choice. Please investigate this matter, contact the customer and provide me with a detailed written report including LOA/Tape and applicable credits for switching fees, as well as an adjustment of rates to that of the customer's preferred carrier by the date below.

02/24/98 Received report with explanation LOA and \$10.14 credit. A letter was sent to the customer.

02/25/98 Closed by e-mail letter to the customer.

ATTACHMENT B  
DOCKET NO. 971490-TI  
APRIL 16, 1998

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Printed by Ellen Plendl 2/25/98 7:53am

-----  
From: Ellen Plendl  
To: MAIL @ SMTP(jon\_wood@juno.com)  
Subject: Slamming Inquiry  
-----

-----NOTE-----  
Mr. Jon C. Wood

Dear Mr. Wood:

We have reviewed your complaint against Excel Communications, Inc.

In an effort to resolve your complaint, we contacted the company and requested a detailed written report on your concerns. It is my understanding that a company representative contacted you to discuss this matter. Based on a review of the information provided to the Florida Public Service Commission (PSC), it appears that the company did not obtain the necessary information to make a switch in your telephone service. The company will go on public record with an infraction against the Florida Administrative Code rules. Excel has sent a credit in the amount of \$10.14 to your local telephone company. This credit should appear in one to two billing cycles.

I share your concerns about unauthorized telephone company changes, or "slamming." The Florida Public Service Commission (PSC) receives more complaints about slamming than any other issue. That is why the PSC is currently developing new rules for the communications industry that will curb slamming.

Customers often tell us that changes in their telephone service were not authorized. Therefore, the PSC is reviewing its rules to ensure that each change is adequately validated by the company claiming a subscriber. The PSC wants to make sure that consumers have an opportunity to tell us about the problems they have encountered with companies changing their preferred local or long distance company. The PSC held 10 rule development workshops in various locations throughout Florida. Commissioners listened to consumers' testimony regarding their slamming experiences and provided consumers with information on how to guard against this unauthorized practice. After considering all public testimony and evidence obtained during the rule development workshops, a formal hearing was held on February 6, 1998, with a second hearing held on February 16, 1998. The PSC staff will now prepare a recommendation in this case for a decision by the Commissioners at a future agenda conference in Tallahassee.

Thank you for the opportunity to address your concerns. If you wish to discuss this or have any questions, please let me know. You may reach me at 1-800-342-3552 or at [ependl@psc.state.fl.us](mailto:ependl@psc.state.fl.us).

Sincerely,

Ellen Plendl  
Regulatory Specialist  
Division of Consumer Affairs

FEB. -24 9811021 10:41

TEL: 972 803 8721

P. 002



February 24, 1998

*On line with the future*

Ellen Plendl  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Request No. 203313I  
Jon C. Wood

Dear Ms. Plendl:

On February 5, 1998, Excel Telecommunications, Inc. received a complaint filed with your office by Mr. Jon C. Wood.

In his complaint, Mr. Wood indicates that his long-distance service was switched from AT&T to Excel without his authorization. Your office is requesting that Excel provide proof of the authorization to switch Mr. Wood's long-distance service and that the appropriate credit adjustments be issued to his account.

Excel's records indicate that an account was established for Jon Wood on January 29, 1998, after we received a signed application (attached) requesting Excel's long-distance, My800<sup>SM</sup> and calling card services for telephone number (407) 645-2895. On February 5, 1998, Excel received a mechanized transmission from Sprint United telephone indicating that the long-distance service for (407) 645-2895 was switched to another carrier; consequently, Mr. Wood's account was canceled in our database on February 6, 1998.

Excel Telecommunications is a long distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes very seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.

FEB -24 58(102) 10:41

FEB 9 12 863 8:21

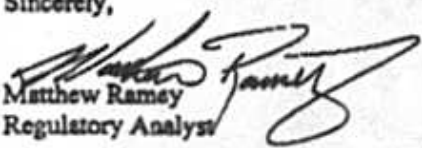
P. 005

In an effort to resolve this matter, a credit adjustment of \$10.14 was issued to Mr. Wood's canceled account on February 24, 1998. This credit adjustment reflects a re-rate of Excel's direct-dialed long-distance rates to those of AT&T for calls placed from February 3, 1998, through February 4, 1998, and reimburses him for the switching fees assessed by Sprint United Telephone as a result of this matter. The credit adjustment should appear on his Sprint United Telephone invoice within 60 days.

On February 23, 1998, I contacted Mr. Wood and informed him of the credit adjustment. I assured Mr. Wood that it is never Excel's intention to establish service without the appropriate consent, and I apologized for any inconvenience this matter has caused. Mr. Wood stated that he is satisfied with our resolution.

If you have any questions, please contact me at (800) 783-2909.

Sincerely,

  
Matthew Ramey  
Regulatory Analyst

c: Mr. Jon C. Wood  
151 West George Avenue  
Maitland, FL 32751

FEB. -24 98(106) 10:42

TEL: 972 863 8721

P. 004

REF CONTROL NO. 3097260300396776349



LONG DISTANCE SERVICE REQUEST FORM (SRF)

YOU MUST COMPLETE A SEPARATE SERVICE REQUEST FORM FOR EACH TELEPHONE BILL RECEIVED

PLEASE CHECK TO INDICATE CUSTOMER STATUS  
 NEW CUSTOMER  EXISTING CUSTOMER

Please print customer's information exactly as it appears on their phone bill.

BILLING TELEPHONE NUMBER (REQUIRED)

4076452895

SECOND TELEPHONE LINE ON SAME BILL

THIRD TELEPHONE LINE ON SAME BILL

PLEASE FILL OUT BOXED AREA NEATLY MAKING SURE NOT TO WRITE OUTSIDE OF BOXES AS SHOWN

ABC5551342

TO INSURE PROPER PROCESSING OF YOUR INFORMATION COMPLETE AS SHOWN IN BLACK OR BLUE INK AND PRINT IN CAPITAL LETTERS

LAST NAME

WOOD

FIRST NAME

JON

ADDRESS LINE 1

151 WEST

GEORGE

QUE

ADDRESS LINE 2

CITY

OMAITLAND

STATE

FL

ZIP CODE

32751

SOCIAL SECURITY NUMBER

301-56-2312

INTELEDATA SERVICE

PLEASE PRINT THE TYPE OF SERVICE YOU WANT TO ADD TO YOUR SERVICE. I understand that my selection is subject to change and that I will be notified by telephone if my selection is not accepted. I understand that I will be charged for the service I select.

SELECT YOUR SERVICE

**Excels Direct Dial™** I understand I will be enrolled in the time first calling program designed especially for residential customers. All calls will be billed in full-month increments and charged a flat-rate based upon originating and terminating cell minutes. I understand I will be charged a \$1.00 monthly service fee.

**ExcelsPlus™** I understand I will be enrolled in the ExcelsPlus calling program designed especially for residential customers who make the majority of their calls to other local numbers and want business customers. I will automatically receive a 50% discount off local calls on all domestic long distance calls to non-local customers. I will also receive a 50% discount on all calls to local residential and small business customers. I will be charged a \$1.00 monthly service fee.

**PremerPlus™** I understand I will be enrolled in the PremerPlus calling plan designed especially for personal residential or small business customers with \$75 or less of long distance usage per month. I will automatically receive a 50% discount off local calls on all domestic long distance calls to non-local customers. I will also receive a 50% discount on all calls to local residential and small business customers. All calls will be discount-priced. However, calls billed in an excess amount and there is a \$1.00 monthly service fee.

**Excels Worldwide One™** Excels Worldwide One calling program is especially designed for international calling needs. I will automatically receive the WorldCall One flat-rate, per minute international rate. There is no set-up charge. I pay a \$2 monthly service fee. **My 800™** There is no set-up charge. I pay only \$1.50 a month plus long distance charges. The number will ring as and be billed in the Billing Telephone Number I have indicated.

**Calling Card™** I request calling cards (Area 2)

**Account Codes** (Available only with PremerPlus™)  
Check number of digits desired  2  3  4  
\$10.00 monthly fee

REQUEST FOR SERVICE

I authorize Excel to provide the services listed in Paragraph 6 above that will be provided by Excel to my telephone number(s) listed in Paragraph 2 above, and no other pertinent information about this selection of a new telephone company is contained on the reverse side of this letter of agency. I certify that I have read and understand this Letter of Agency including the explanation on the reverse side. I further certify that I am at least eighteen years of age and that I am authorized to change telephone services for services to the telephone number(s) listed above.

CUSTOMER SIGNATURE *John Wood*

DATE 01-26-98

REPRESENTATIVE ID NUMBER

593245073

I hereby certify that my sponsor request services through the PremerPlus customer and that the signature above is that of the Customer.

REPRESENTATIVE SIGNATURE *Joan L. Payton*

WESTSIDE FAMILY WORSHIP

40765140883

Printed by Ellen Plendl 2/05/98 4:37pm

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-----  
From: Ellen Plendl  
To: MAIL @ SMTP{jon\_wood@juno.com}  
Subject: Slamming Complaint  
-----

-----NOTE-----  
Mr. Jon C. Wood

Dear Mr. Wood:

Thank you for your correspondence concerning Excel.

We will look into the matter you outlined, advise the company to contact you to resolve the problem, and require the company to provide the Florida Public Service Commission with a letter outlining its resolution of the matter.

If you have any questions, I can be reached at 1-800-342-3552 or at eplendl@psc.state.fl.us.

Sincerely,

Ellen Plendl  
Regulatory Specialist  
Division of Consumer Affairs  
-----



Printed by Ellen Plendl 2/05/98 2:35pm

223 319 I

From: LRASBERRY @ SMTP (LRASBERRY@PSC.STATE.FL.US)  
To: Jennifer Erdman-Bridges, LRASBERRY @ PSC, Pamela Johnson  
Subject: fwd: Slamming Complaint Form

-----NOTE-----2/04/98-10:33pm-----  
Return-Path: <mdmatney@2kweb.com>  
Received: from 2kweb.com (192.41.9.197)  
by mail.psc.state.fl.us (Connect2-SMTP 4.30A.1000128);  
Wed, 4 Feb 1998 22:36:25 -0500  
Received: (mdmatney@localhost) by 2kweb.com (8.8.5) id UAA13602; Wed, 4 Feb 1998  
20:33:45 -0700 (MST)  
Date: Wed, 4 Feb 1998 20:33:45 -0700 (MST)  
Message-Id: <199802050333.UAA13602@2kweb.com>  
From: LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMANB@PSC.STATE.FL.US (Consumer Slamming Complaint)  
Reply-To: LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMANB@PSC.STATE.FL.US (Consumer Slamming Complaint)  
To: LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US,  
JERDMANB@PSC.STATE.FL.US  
Subject: Slamming Complaint Form

Below is the result of your feedback form. It was submitted by Consumer Slamming  
Complaint  
(LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMANB@PSC.STATE.FL.US on Wed  
Feb 4 20:33:44 MST 1998

-----  
Complaint:  
LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMANB@PSC.STATE.FL.US  
return-email:  
LRASBERRY@PSC.STATE.FL.US, PJOHNSON@PSC.STATE.FL.US, JERDMANB@PSC.STATE.FL.US  
return-name: Consumer Slamming Complaint  
subject: Slamming Complaint Form  
Account holder: Jon C. Wood  
Submitted by: Jon C. Wood  
Service Address: 151 W. Georgr Avenue  
City, State and Zip Code: Maitland, FL 32751  
County: Orange  
Mailing Address:  
Mailing City, State and Zip Code:  
E-mail Address: jon\_wood@juno.com  
Telephone Number at the Service Address: (407) 645-2895  
Daytime Contact Telephone Number: (407) 645-2895  
Local Telephone Company: Sprint  
Interstate/Long Distance Telephone Company: AT&T  
Intrastate/Local Toll Telephone Company: AT&T  
Interstate/Long Distance: Yes  
Intrastate/Local Toll: Yes  
Company that Switched the Service Without Authorization: Excel  
Contacted Preferred Carrier: YES  
Contacted company in dispute: NO  
name of contact:  
Received bill from new carrier: NO  
comments:

From: Jennifer-Erdm=2/05/98=1:11pm-----  
Fwd to: Ellen Plendl  
.....  
Ellen, please handle. Thanks!  
-----

Name PETER JOHN Company EXCEL TELE UNICATIONS, INC.  
Address NANCY PETERSEN CALLED Attn. JIM BUTLER 182268  
1131 CIRCLE DRIVE Consumer's Telephone # (941)-676-2746  
City/Zip LAKE WALES 33853 County POLK Can Be Reached (941)-676-1493  
Account Number \_\_\_\_\_ Note ifp  
Caller's Name \_\_\_\_\_ Informal Conf. N Outreach \_\_\_\_\_

Request No. 182268I  
By DBM Time 4:38 PM Date 08/06/1997  
To CO Time FGAX Date 08/06/1997  
Type S Form Phone  
Category \_\_\_\_\_  
Infraction LS-13C  
Closed by MEP Date 03/24/1998  
Reply Received T

The customer said that her service was switched to Excel from AT&T without authorization. The customer said she would like her calls rerated and credit for any switching fees. Please, provide proof of authorization (LOA/TAPE), follow up with the customer, send the PSC a detailed written report, and respond by the date below.  
Inquiry taken by JOHN PLESCOM.

08/21/97 Received report with explanation, LOA and \$14.57 credit. A letter was sent to the customer.

03/24/98 Closed.

### CONSUMER REQUEST

## FLORIDA PUBLIC SERVICE COMMISSION

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL. 32399-0850  
850-413-6100

PLEASE RETURN THIS FORM  
WITH REPORT OF ACTION TO:

DUE: 08/22/1997

ATTACHMENT C  
DOCKET NO. 971490-TI  
APRIL 16, 1998

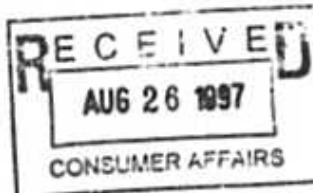
-25-



*On line with the future*

August 22, 1997

Doug Martin  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850



RE: Mrs. John Petersen  
Request No. 1822681

Dear Mr. Martin:

On August 6, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Mrs. John Petersen.

In her complaint, Mrs. Petersen states her long distance service was switched from AT&T to Excel without her prior consent or authorization. Mrs. Petersen seeks reimbursement for all service fees and switching fees assessed by Excel and GTE as a result of the change in carrier. In addition, she requests that the direct-dialed charges billed by Excel be adjusted to reflect the rates of her carrier of choice, AT&T.

Excel's records indicate that service was established for Mrs. Nancy Petersen on July 15, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (941) 676-2746. The account was subsequently canceled from our database on July 31, 1997, after we received an electronic transmission from GTE indicating that the long distance carrier for (941) 676-2746 had changed.

Excel Telecommunications is a long distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.

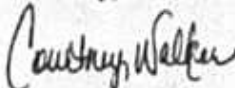
Our records further indicate that a credit adjustment of \$4.50 was issued to Mrs. Petersen's canceled account on July 31, 1997, for services fees assessed by Excel during the month of July. The credit adjustment should appear on her local telephone invoice within 60 days.

In an effort to resolve this matter, an additional credit adjustment of \$10.07 was issued to Mrs. Petersen's account on August 13, 1997. This figure includes the switching fees assessed by GTE as well as the direct-dialed charges billed by Excel from July 20, 1997, through July 26, 1997. The adjustment should appear on Mrs. Petersen's GTE invoice within 60 days.

I contacted Mrs. Petersen on August 13, 1997, to advise her of my findings and inform her of the credit adjustments. I assured Mrs. Petersen that it is never Excel's intention to establish service without the appropriate consent or authorization, and I apologized for any inconvenience this matter has caused. She states this resolution is satisfactory.

If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Mrs. John Petersen  
1131 Circle Drive  
Lake Wales, FL 33853

YOU MUST COMPLETE SEPARATE SERVICE REQUEST FORM FOR EACH TELEPHONE BILL RECEIVED

ATTACHMENT G  
EXCEL 1994  
APRIL 16, 1994  
P.O. BOX 630582 • DALLAS, TX 75265-05821 PLEASE / CHECK TO INDICATE CUSTOMER STATUS  NEW CUSTOMER  EXISTING CUSTOMER

## SERVICE REQUEST FORM (SRF)

2 Please print customer's information exactly as it appears on their phone bill.

PLEASE FILL OUT BOXED AREA NEATLY MAKING SURE NOT TO WRITE OUTSIDE OF BOXES AS SHOWN

BILLING TELEPHONE NUMBER (REQUIRED)

941 676 2746

SECOND TELEPHONE LINE ON SAME BILL

THIRD TELEPHONE LINE ON SAME BILL

ABC5551342

TO INSURE PROPER PROCESSING OF YOUR INFORMATION COMPLETE AS SHOWN IN BLACK OR BLUE INK AND PRINT IN CAPITAL LETTERS

3 LAST NAME

Petersen

FIRST NAME

Nancy

ADDRESS LINE 1

1131 Circle Dr

ADDRESS LINE 2

CITY

Lake Wales

STATE

FL

ZIP CODE

33853

4 SOCIAL SECURITY NUMBER

987-92-3822

5 INTRALATA SERVICE

PLEASE INITIAL THIS BOX TO SELECT INTRALATA SERVICE. I understand I will be prohibited to fund for any toll calls under either my local access or long distance plan. I understand on local charges that there is a service charge for each line change.

## SELECT YOUR SERVICE

 **Excel Simply One™** I understand I will be enrolled in the Simply One calling program designed especially for residential customers. All calls will be charged a per-minute fee-one based upon time of day and originating and terminating call location. I understand I will be charged a \$1.00 monthly service fee. **ExcelPlus EP™** I understand I will be enrolled in the ExcelPlus calling program designed especially for residential customers who make the majority of their calls to other local residential and small business customers. I will automatically receive a 30% discount off Excel's standard rates on all domestic long distance calls to non-Excel customers. I will also receive a 50% discount on all calls to Excel residential and small business customers. I will be charged a \$1.00 monthly service fee. **PremierPlus II™** I understand I will be enrolled in the PremierPlus II calling program designed especially for personal residential and small business customers with \$75 or less of long distance usage per month. I will automatically receive a 30% discount off Excel's standard rates on all domestic long distance calls to non-Excel customers. I will also receive a 50% discount on all calls to local residential and small business customers. All calls will be discount-proof, flat-rate, per-minute calls and there is a national \$3.00 monthly **Excel WorldNet™** Excel WorldNet calling program is especially designed for international calling needs. I will automatically receive the WorldNet discounted, time-dated international rates. There is no set-up charge. I pay a \$3 monthly service fee. **My 800™** There is no set-up charge. I pay only \$3.50 a month plus long distance charges. This number will ring at and be billed to the Billing Telephone Number I have indicated. **Calling Cards**  
I request \_\_\_\_\_ calling cards (Circle 2) **Account Codes** (Available only with PremierPlus II)  
Check number of digits desired  1  3  4  
\$1.00 monthly fee

## REQUEST FOR SERVICE

This Letter of Agency shall be in effect upon its receipt and acceptance by Excel Telecommunications, Inc. as its Corporate Office in Dallas, Texas. I authorize you to inform my local telephone company that I have selected Excel Telecommunications, Inc. to be my primary long distance service for 1+ equal areas dialing (including area codes if indicated above). I understand that I may designate only one long distance service. I understand my local telephone company can assess a service charge for each line change. This Letter of Agency shall remain in effect until I revoke the same in writing. I certify that I am at least 18 years of age and that I have the proper authority to sign this Letter of Agency.

CUSTOMER SIGNATURE

Nancy Petersen

DATE 7-10-97

8 REPRESENTATIVE ID NUMBER

554119143

I hereby certify that my sponsor assisted me in obtaining this Post Start Customer.

REPRESENTATIVE SIGNATURE

DATE

EXCEL REPRESENTATIVE LAST NAME

FIRST NAME

TELEPHONE NUMBER

Jackson

Klindy

9169291320

WHITE - EXCEL

YELLOW - REPRESENTATIVE

PINK - CUSTOMER

REF CONTROL NO. 0896-1601 119528200





**PUBLIC SERVICE COMMISSION**

2540 Shumard Oak Boulevard  
CAPITAL CIRCLE OFFICE CENTER  
TALLAHASSEE, FLORIDA 32399-0850

**FACSIMILE TRANSMITTAL COVER SHEET**

DATE: 4-13-98 TIME SUBMITTED: 2:30 p.m.

TO: Nancy TITLE: \_\_\_\_\_

OFFICE/BUSINESS: \_\_\_\_\_

TELEPHONE NO: ( ) \_\_\_\_\_ FAX NO: (741) 676-6844

FROM: \_\_\_\_\_

OFFICE/DIVISION: \_\_\_\_\_

TELEPHONE NO: (850) FAX NO: (850)

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NUMBER OF PAGES, INCLUDING THIS COVER SHEET: \_\_\_\_\_

\*\* Transmit Conf. Report \*APRIL 16, 1998

Apr 13 '98 14:22

FL PUBLIC SERVICE COMM--> 9416766844	
No.	0012
Mode	NORMAL
Time	1'15"
Pages	2 Page(s)
Result	O K

Name SMITH, JTY

Company EXCEL TELE UNICATIONS, INC.

Address 2740 N.E. 15 AVE.

Attn. JOEL BALLEW 1942881

City/Zip FT. LAUDERDALE 33334 County BRO

Consumer's Telephone # (954)-565-5923

Account Number \_\_\_\_\_

Can Be Reached \_\_\_\_\_

Caller's Name \_\_\_\_\_

Note \_\_\_\_\_

Informal Conf. N Outreach CUSTOMER'S BILL

Request No. 1942881

By SRG Time 1:48 PM Date 11/17/1997

To CO Time FAX Date 11/17/1997

Type S Form Phone

Category \_\_\_\_\_

Infraction LS-13C

Closed by SRG Date 12/19/1997

Reply Received I

Customer says the following:

Her long distance service was switched without her knowledge.

The customer's PIC is AT&T.

Please provide proof of authorization, including an LOA/TAPE.

12/04/97 Report received. The company will be issuing the customer a credit of \$3.19 for the charges incurred. The information provided is not the signature of the customer.

12/9/97 Report received. This report is the same as the previous one provided by the company. I will contact the customer with the results of this investigation.

### CONSUMER REQUEST

## FLORIDA PUBLIC SERVICE COMMISSION

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL. 32399-0850  
850-413-6100

PLEASE RETURN THIS FORM  
WITH REPORT OF ACTION TO:

DUE: 12/04/1997

ATTACHMENT D  
DOCKET NO. 971490-TI  
APRIL 16, 1998

-31-



December 4, 1997

*On line with the future*

Sam Gonzalez  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850



RE: Betty Smith  
Request No. 1942881

Dear Mr. Gonzalez:

On November 17, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Ms. Betty Smith.

In her complaint, Ms. Smith states that her long distance service was switched from AT&T to Excel without her prior consent or authorization.

Excel's records indicate that an account was established for Ms. Smith on October 10, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (954) 565-5923. The account was canceled from our database on November 17, 1997, at Ms. Smith's request.

Excel Telecommunications is a long-distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.

Our records further indicate that a credit adjustment of \$10.00 was issued to Ms. Smith's canceled account on November 17, 1997. The credit adjustment reimburses Ms. Smith for the switching fees assessed by Bell South and should appear on her local telephone invoice within 60 days.

In an effort to resolve this matter, the following credit adjustments were issued to Ms. Smith's canceled account on December 1, 1997:

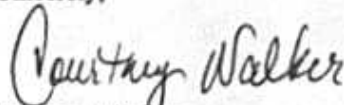
- \$1.03 -- service fees assessed by Excel in October 1997;
- \$2.16 -- total amount of the Excel charges incurred as a result of the change in carrier, including the direct-dialed calls placed from October 18, 1997, through October 29, 1997.

The credit adjustments totaling \$3.19 should appear on Ms. Smith's Bell South invoice within 60 days.

I contacted Ms. Smith on December 1, 1997, to advise her of my findings and inform her of the credit adjustments. I assured Ms. Smith that it is never Excel's intention to establish service without the appropriate consent or authorization, and I apologized for any inconvenience this matter may have caused. She states this resolution is satisfactory.

If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Ms. Betty Smith  
2740 N.E. 15 Ave.  
Ft. Lauderdale, FL 33334





December 4, 1997

*On line with the future*

Sam Gonzalez  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Betty Smith  
Request No. 194288I

Dear Mr. Gonzalez:

On November 17, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Ms. Betty Smith.

In her complaint, Ms. Smith states that her long distance service was switched from AT&T to Excel without her prior consent or authorization.

Excel's records indicate that an account was established for Ms. Smith on October 10, 1997, after we received a signed application (attached) requesting Excel's service for telephone number (954) 565-5923. The account was canceled from our database on November 17, 1997, at Ms. Smith's request.

Excel Telecommunications is a long-distance company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes seriously the matter of unauthorized applications for service. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts and loss of future commissions. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have terminated the position of the Independent Representative who placed the order related to this complaint.

Our records further indicate that a credit adjustment of \$10.00 was issued to Ms. Smith's canceled account on November 17, 1997. The credit adjustment reimburses Ms. Smith for the switching fees assessed by Bell South and should appear on her local telephone invoice within 60 days.

In an effort to resolve this matter, the following credit adjustments were issued to Ms. Smith's canceled account on December 1, 1997:

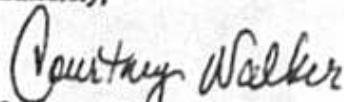
- \$1.03 -- service fees assessed by Excel in October 1997;
- \$2.16 -- total amount of the Excel charges incurred as a result of the change in carrier, including the direct-dialed calls placed from October 18, 1997, through October 29, 1997.

The credit adjustments totaling \$3.19 should appear on Ms. Smith's Bell South invoice within 60 days.

I contacted Ms. Smith on December 1, 1997, to advise her of my findings and inform her of the credit adjustments. I assured Ms. Smith that it is never Excel's intention to establish service without the appropriate consent or authorization, and I apologized for any inconvenience this matter may have caused. She states this resolution is satisfactory.

If you have any questions, please contact me at 800-783-2909.

Sincerely,



Courtney Walker  
Regulatory Analyst

c: Ms. Betty Smith  
2740 N.E. 15 Ave.  
Ft. Lauderdale, FL 33334



Name BANKS, JYBLE  
 Address ERNIE BANKS-SON  
7667 N. WICKHAM ROAD  
 City/Zip MELBOURNE County BRE  
 Account Number \_\_\_\_\_  
 Company Contact \_\_\_\_\_

Company EXCEL TELECOMMUNICATIONS, INC.  
 Attn. JIM BUTLER 169570  
 Consumer's Telephone # (407)-631-4266  
 Can Be Reached (407)-867-4287  
 Note \_\_\_\_\_  
 Limited Response N

Request No. 1695701  
 By JRD Time 12:46 PM Date 04/23/97  
 To CO Time FAX Date 4/23/97  
 Type S form Phone  
 Category \_\_\_\_\_  
 Infraction LS-13H  
 Closed by JRD Date 06/25/97  
 Reply Received T

Mr. Banks says that his elderly mother's PIC was switched to Excel without her authorization. Please provide proof of authorization and rerate calls.  
 5/9/97 Report received.  
 5/14/97 Called Mr. Banks who asked me to fax him the response for his review.  
 5/20/97 FAX TO EXCEL: Mr. Banks called and said that he showed his mother the order form provided to the PSC. She says the signature is not hers. Please respond.

6/25/97 Closed by phone.

1-37-

**CONSUMER REQUEST**

**FLORIDA PUBLIC SERVICE COMMISSION**

2540 SHUMARD OAK BOULEVARD  
 TALLAHASSEE, FL. 32399-0850  
 904-413-6100

PLEASE RETURN THIS FORM WITH REPORT OF ACTION TO:

Richard Durbin

DUE: 05/08/97

ATTACHMENT E  
 DOCKET NO. 971490-TI  
 APRIL 16, 1998

\*\* Transmit Conf. Report

May 14 '97

FL PUBLIC SERVICE COMM--> 614078672947	
No.	0003
Mode	NORMAL
Time	2'09"
Pages	4 Page(s)
Result	O K



May 14 1997, 08:38 AM

STATE OF FLORIDA



PUBLIC SERVICE COMMISSION

2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FL 32399-0850

TO:

Ernie Banks

407-867-294

FROM:

Dick Durbin

Fax: (800)511-0809

Voice: (904)413-6121 Or (800)342-3552

RE:

Excel

Note:

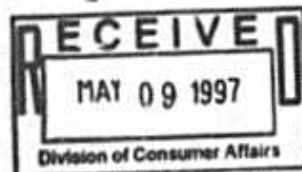


May 8, 1997

*On line with the future*

Richard Durbin  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Syble Banks  
1695701



Dear Mr. Durbin:

On April 24, 1997, Excel Telecommunications, Inc. received a complaint filed with your office by Ernie Banks on behalf of Syble Banks.

In the complaint, Mr. Banks states that his mother's telephone number, (407) 631-4266, was switched to Excel without her consent or prior knowledge.

Our records indicate that Mrs. Banks long distance service was switched to Excel after we received a signed application (attached) on September 3, 1996 requesting that service be established for telephone number (407) 631-4266. This account was canceled in the Excel database on January 2, 1997.

Excel Telecommunications, Inc. is a long-distance telephone company that utilizes a network marketing structure. Independent Representatives market the service to potential customers and representatives and provide them with the necessary applications for service. These applications are then returned to Excel, and accounts are established on the basis of these applications.

Excel takes seriously the matter of unauthorized applications. Independent Representatives are advised that unauthorized accounts will result in termination of their contracts. All complaints of unauthorized accounts automatically result in an investigation of the Independent Representative who placed the order, and appropriate action is taken when an Independent Representative is found to have placed an unauthorized request for service. In keeping with this policy, we have contacted the Independent Representative who placed the order related to this matter.

In an effort to resolve this matter, the following credit adjustments have been issued to Mrs. Banks' Bell South account:

- \$11.26--was issued on February 6, 1997, for the switching fees incurred;
- \$6.00--was issued on February 2, 1997, for the monthly service charges appearing on her local billing statements between October 1996 and January 1997;
- \$3.15--was issued on January 15, 1997, for the direct-dialed charges appearing on her December 1996 billing statement.

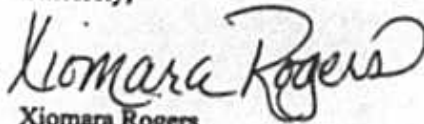
According to the Interexchange Point of Contact (IPOC) for Bell South, the credits totaling \$20.41 has not posted to Mrs. Banks' account; therefore, I reissued the credits totaling \$20.41 on May 6, 1997. This credit should appear on Mrs. Banks' Bell South account within 60 days.

On May 6, 1997, I attempted to contact Mr. Banks by telephone; however, I was unsuccessful. I was advised that he would be out of town for the remainder of the week. If Mr. Banks has any questions pertaining to this matter, he may contact me at the toll-free number listed below.

Excel wishes to assure Mr. Banks that it is never our intention to establish service without the customer's consent, and we apologize for any inconvenience this matter may have caused.

If you have any additional questions or concerns, please contact me at (800) 783-2909.

Sincerely,



Xiomara Rogers  
Regulatory Analyst

c: Syble Banks  
c/o Ernie Banks  
7667 N. Wickham Rd.  
Melbourne, FL 32927

10VX30... (mirrored text)

**1. PHONE NUMBERS FOR SERVICE** The following number(s) at the address on this record are:

MAIN TELEPHONE NUMBER (required) 14076314266 SECOND TELEPHONE NUMBER ON SAME BILL \_\_\_\_\_ SEP 0 3 1996  
THIRD TELEPHONE NUMBER ON SAME BILL

Please print name and address exactly as it appears on your local phone bill.

LAST NAME BANKS FIRST NAME ISYBLE SOCIAL SECURITY # 1256136410181  
 ADDRESS 1219 CAPRON RD CITY COCOA STATE FL ZIP 32927

**2. SELECT YOUR SERVICE** Initial the service you are requesting.

**Excel Simply One™** I understand I will be enrolled in the Simply One calling program which is designed especially for residential customers. All calls will be charged a flat rate per-minute based upon time of day and long-distance and terminating call location. I understand I will be charged a \$1.00 monthly service fee.

**ExcelPlus II™** I understand I will be enrolled in the ExcelPlus II calling program which is designed especially for residential customers who make the majority of their calls to other Excel residential and small business customers. I will automatically receive a 30% discount on all domestic long distance calls to non-Excel customers. I will also receive a 30% discount on all calls to Excel residential and small business customers. I will be charged a \$1.00 monthly service fee.

**PremierPlus II™** I understand I will be enrolled in the PremierPlus II calling program which is designed especially for residential or small business customers with \$75 or less of long distance usage per month. I will automatically receive a 30% discount on all domestic long distance calls to non-Excel customers. I will also receive a 30% discount on all calls to Excel residential and small business customers. All calls will be discount-priced. Flat rate, per minute calls and there is a nominal \$3.00 monthly service fee.

**3. ADDITIONAL SERVICES** Initial the service you are requesting.

**Excel WorldNet™** My Excel WorldNet calling program is especially designed for my professional calling needs. I will automatically receive the WorldNet discount, direct-dial international rates. There is no set-up charge. I pay a \$3 monthly service fee.

**My 800™** There is no set-up charge. I pay only \$2.00 a month plus long distance charges. This number will ring at and be billed to the Main Telephone Number I have indicated.

**Calling Cards** I request \_\_\_\_\_ calling cards (line 2).

**Account Codes** Check number of digits desired:  1  2  3  4

**4. SELECT YOUR INTRALATA SERVICE** Initial the service you are requesting.

**IntraLATA Service.** I understand I will be prioritized to Excel for any toll calls made within my Local Access Transport Area (IntraLATA) calls, allowing when my jurisdiction has approved IntraLATA service. I understand my local telephone company will assess a service charge for each toll charged.

**5. REQUEST FOR SERVICE** This Letter of Agency shall be in effect upon its receipt and acceptance by Excel Telecommunications, Inc. or its Corporate Office in Dallas, Texas. I authorize you to obtain my local telephone number and long distance service. I understand my local telephone company will assess a set-up charge for each line changed. This Letter of Agency shall remain in effect until I receive the same in writing. I certify that I am at least 18 years of age and that I have proper authority to sign it. Letter of Agency

Signature X Isyble Banks Date 9-28-96

**6. EXCEL REPRESENTATIVE**

REPRESENTATIVE'S LAST NAME CARTRIGHT FIRST NAME LOKI K. TELEPHONE NUMBER 15131878131 EXCEL ID NUMBER 20285641564

PRINTS EXCEL TELL OR REPRESENTATIVE PNR CUSTOMER DO NOT COPY OR DUPLICATE Form #1001 3/98