

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of MP Alliance Technologies, Inc. for apparent violation of Rule 25-24.470, F.A.C. | DOCKET NO. 080109-TI
ORDER NO. PSC-08-0422-PAA-TI
ISSUED: June 24, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING A SETTLEMENT OFFER FOR VIOLATION OF MP ALLIANCE
TECHNOLOGIES, INC. FOR APPARENT VIOLATION OF RULE 25-24.470, F.A.C.

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. Case Background

On August 8, 2007, a customer filed two complaints with this Commission regarding three prepaid calling cards. After receiving the complaints, our staff determined that the network service provider of the calling cards was MP Alliance Technologies (MPAT). The network service provider is the party responsible for ensuring that the prepaid calling services are provided in accordance with this Commission's rules governing those type services. Our staff also determined that MPAT had not registered with the this Commission as an intrastate interexchange telecommunications company (IXC) and had not filed a tariff. Our staff made several attempts to locate the company, but was unable to obtain contact information for MPAT at that time.

On December 7, 2007, after obtaining the company's contact information, our staff sent a certified letter to MPAT. The letter informed MPAT of the customer's complaints and of the company's requirement to register as an IXC and file a tariff with Us. On January 2, 2008, an attorney representing MPAT contacted our staff, via telephone. He informed our staff that he was the official point of contact for MPAT and that all future correspondence with the company should go to him. The attorney claimed that MPAT only provided interstate and international

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services and that the cards could not be used to place intrastate calls. Our staff requested that the company submit these statements in writing.

On January 3, 2008, our staff received a letter, via facsimile, from MPAT. The company agreed to resolve the customer's complaints by issuing the customer a refund of \$6.00 plus an additional \$6.00 for the customer's inconvenience. MPAT wrote that it did not provide intrastate IXC services, and therefore would not register or file a tariff with the this Commission.

On January 9, 2008, our staff contacted the customer to verify she had received a refund. She had neither been contacted by the company nor had she received a refund. The customer also advised that her address had changed and provided our staff with the new address. Our staff contacted MPAT to provide the customer's new address. Our staff requested that the company provide a copy of the letter and check that it planned to send to the customer. Our staff also requested that the company provide our staff with an active MPAT calling card for testing and verification.

On January 14, 2008, our staff received the requested information along with a \$2.00 calling card titled "*The Latino*." After receiving the requested information from the company, our staff contacted the customer. The customer verified that she did receive a refund in the amount of \$12.

On January 29, 2008, our staff attempted to test the calling card, but was unable to complete a call. On January 30, 2008, our staff made a second attempt to test the card. Our staff was able to successfully complete five intrastate long distance calls. After the test calls were completed, our staff contacted MPAT and requested that MPAT provide the call-detail records for the card. The company asked that our staff provide a copy of the request in writing. Upon termination of the phone call, our staff immediately faxed a request for the call-detail records to the company.

On January 31, 2008, MPAT's attorney informed our staff that the company was unable to provide call-detail records for the calling card. According to the attorney, the calling card that was provided to our staff was a new card and had never been used. Our staff explained again that the calling card was used during testing; therefore, a call-detail record of the calls should exist. The attorney stated that he would contact MPAT again to request the information.

On February 1, 2008, MPAT contacted our staff. According to MPAT, the phone card that was sent to our staff was provided in error. MPAT claimed that it does not use the "*The Latino*" brand phone cards. The company representative informed our staff that it inherited those phone cards when MPAT was purchased. As a result, MPAT was unable to provide call records for the calling card. The company offered our staff another phone card for testing. MPAT stated that it would provide a phone card that was the same brand as the phone card in the customer's complaint. The company faxed a letter to our staff on February 4, 2008, reiterating what was discussed during the telephone conversation, and on February 6, 2008, our staff received the "*Morenita*" phone card.

On February 13, 2008, our staff tested the "*Morenita*" phone card. Our staff made and completed two intrastate long distance calls. During each test call, our staff contacted a member of this Commission's own staff in Tallahassee. The calls were made using the West Palm Beach and Tampa access telephone numbers listed on the calling card. The same staff member was called during both test calls.

Despite MPAT's claims that the company was not providing intrastate IXC services in Florida, our staff was able to make intrastate long distance calls using both of the cards provided by the company. After determining that MPAT was indeed providing intrastate IXC services in Florida, our staff opened this docket on February 22, 2008.

On March 6, 2008, our staff attempted to test the "*Morenita*" calling card a third time. Our staff called three different local access numbers listed on the card. After dialing each number, our staff received a recording asking the customer to press "1" for English or "2" for Spanish. Upon pressing a number, either 1 or 2, the call would disconnect. When our staff attempted to place a call using the 800 access number, the recording stated that the call cannot be completed as dialed. Our staff also called the access numbers listed on "*The Latino*" calling card that the company originally provided for testing and experienced similar results.

On March 27, 2008, our staff filed a recommendation. The recommendation addressed MPAT's failure, as required by Rule 25-24.470, Florida Administrative Code (F.A.C.), to register as an IXC and file a tariff prior to providing intrastate interexchange telecommunications services in Florida. On April 1, 2008, MPAT contacted our staff, via telephone, and requested that the item be deferred from the April 8, 2008, Agenda Conference.

The company submitted a written request for deferral, via facsimile, on April 2, 2008. MPAT also proposed a settlement offer of \$5,000 to resolve the company's apparent violation of Rule 25-24.470, F.A.C., and agreed to register and file a tariff with the this Commission. Two weeks later, after not receiving an IXC Registration form or tariff from the company, our staff contacted MPAT. At that time, our staff requested that the company submit in writing a date by which the company planned to register and file a tariff. The company agreed to submit the letter on April 17, 2008, the next day. However, MPAT never submitted the requested information.

On April 29, 2008, our staff sent a letter to the company, via certified mail and facsimile. The letter notified MPAT that if the company did not register and file a tariff by May 9, 2008, our staff would re-file the recommendation that was deferred from the April 8, 2008, Agenda Conference. On May 4, 2008, MPAT submitted a letter, via facsimile, stating that the company had decided not to proceed with its plans to conduct business in Florida. The company will not register with the Florida Department of State to conduct business in Florida and will not register or file a tariff with the this Commission as stated in the company's proposed settlement offer. However, the company did agree to submit the proposed settlement payment of \$5,000 for its apparent violation of Rule 25-24.470, F.A.C.

This Order addresses MPAT's proposed settlement offer to cease providing prepaid calling services in Florida and to submit a payment in the amount of \$5,000 to resolve the

company's apparent violation of Rule 25-24.470, F.A.C. We are vested with jurisdiction over these matters pursuant to Sections 364.02, 364.04, and 364.285, Florida Statutes.

II. Analysis

Rule 25-24.470, F.A.C., Registration Required, states:

No person shall provide intrastate interexchange telephone service without first filing an initial tariff containing the rates, terms, and conditions of service and providing the company's current contact information with the Division of the Commission Clerk and Administrative Services.

As stated in the case background, after receiving a customer complaint, our staff determined that MPAT was providing prepaid calling services in Florida and had not registered as an IXC or filed a tariff with us. Our staff contacted the company and informed MPAT of the company's apparent violations. The company initially agreed to register and file a tariff with This Commission and to continue operating in Florida. However, MPAT ultimately decided not to proceed with their initial plans.

To resolve the company's apparent violation of Rule 25-24.470, F.A.C., MPAT has proposed to cease providing prepaid calling services in Florida and to submit a settlement payment in the amount of \$5,000. MPAT is aware that in the future if the company elects to provide intrastate interexchange telecommunications services in Florida and fails to register and file a tariff with the this Commission, it will be subject to penalties pursuant to Section 364.285, Florida Statutes.

III. Decision

MPAT's proposed settlement offer is consistent with settlement offers that the we have approved in similar dockets. In Docket No. 030995-TI, In Re: Compliance investigation of Cybertel, Communications Corp. for apparent violations of Sections 364.02(13), 364.04, and 364.336, Florida Statutes, we accepted the company's proposed settlement offer to cease operating in Florida and to submit a settlement payment in the amount of \$5,000 to resolve the company's apparent violations. Because MPAT's offer is consistent with prior approved settlements, we hereby accept MPAT's proposed settlement offer to cease providing prepaid calling services in Florida and to submit a payment in the amount of \$5,000 to resolve the company's apparent violation of Rule 25-24.470, F.A.C.

This docket shall remain open pending the receipt of the \$5,000 settlement payment. The payment shall be made within fourteen (14) calendar days after the issuance of the Consummating Order. The payment shall be made payable to the Florida Public Service Commission and shall identify the docket number and the company's name. Upon receipt of payment, we shall forward it to the Division of Financial Services to be deposited into the General Revenue Fund. If MPAT fails to make the payment within fourteen (14) calendar days after the issuance of the Consummating Order, this docket shall remain open pending further


proceedings. This docket shall be closed administratively upon receipt of the settlement payment.

Based on the foregoing, it is,

ORDERED by the Florida Public Service Commission that we accept MP Alliance Technologies, Inc.'s proposed settlement offer to cease providing prepaid calling services in Florida and to submit a payment in the amount of \$5,000 to resolve the company's apparent violation of Rule 25-24.470, F.A.C. It is further

ORDERED this docket shall remain open pending the receipt of the \$5,000 settlement payment. The payment shall be made within fourteen (14) calendar days after the issuance of the Consummating Order. The payment shall be made payable to the Florida Public Service Commission and shall identify the docket number and the company's name. Upon receipt of payment, we shall forward it to the Division of Financial Services to be deposited into the General Revenue Fund. If MPAT fails to make the payment within fourteen (14) calendar days after the issuance of the Consummating Order, this docket shall remain open pending further proceedings. This docket shall be closed administratively upon receipt of the settlement payment.

By ORDER of the Florida Public Service Commission this 24th day of June,
2008.



ANN COLE
Commission Clerk

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be

construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 15, 2008.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.