

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of Easy Telephone Services Company for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.	DOCKET NO. 110029-TX ORDER NO. PSC-11-0154-PAA-TX ISSUED: March 7, 2011
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The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING SETTLEMENT AGREEMENT

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 (F.A.C.).

Case Background

Easy Telephone Services Company (Easy Tel) is a competitive local exchange company (CLEC) and is authorized to provide local exchange telecommunications services in Florida, pursuant to CLEC Certificate No. 7300. On March 26, 2010, Easy Tel was authorized to serve as an Eligible Telecommunications Carrier (ETC) in Florida.

In late August 2010, customers began filing unauthorized carrier change (slamming) complaints against Easy Tel. As of January 19, 2011, 106 slamming complaints were filed against the company.

Upon receiving each complaint, the complaints were forwarded to the company for resolution. After reviewing the complaints, Easy Tel stated that the unauthorized switches occurred because of a problem with the company's marketing agent. According to Easy Tel, the company determined its marketing agent was converting prospective customers to Easy Tel without the customers' authorization. To rectify this problem, Easy Tel began withholding the agent's commission for all customers whose local phone service was switched to Easy Tel by the

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marketing agent without the customer's authorization. Employees of the agent who were determined to have switched customers without proper authorization were also terminated. However, despite Easy Tel's efforts, the problem continued and became worse.

Easy Tel was informed of the customers slamming complaints during a December 7, 2010, meeting with our staff. The company's representatives acknowledged that they were aware of the issue and had taken steps to resolve the matter. Easy Tel stated that effective December 9, 2010, the marketing agent would be terminated and would no longer provide marketing services for the company.

While we have received several slamming complaints against Easy Tel after the date that the marketing agent was terminated, the complaints received were in regards to unauthorized switches that were made prior to December 9, 2010. It appears that Easy Tel's slamming issues ceased once the marketing agent was terminated. Easy Tel has worked to resolve all of the slamming complaints that were filed against the company. On February 9, 2011, Easy Tel also submitted a proposed settlement offer to resolve the company's apparent slamming violations. Discussion between the bench and our staff determined that Easy Tel has approximately 3,927 customers in Florida¹, and the customers who filed complaints were fully compensated by receiving full credit and/or by being switched back to their original provider.²

We are vested with jurisdiction over this matter pursuant to Sections 364.02(13), 364.04, 364.285, and 364.603, Florida Statutes.

Discussion

Between August 30, 2010 and January 19, 2011, 106 slamming complaints were received against Easy Tel. Easy Tel advised that the slamming complaints filed against the company were the result of its marketing agent switching customers to Easy Tel without proper authorization. On December 9, 2010, the agent was terminated after Easy Tel determined that the marketing agent was switching customers without proper authorization.

On February 9, 2011, Easy Tel proposed a settlement offer attached hereto as Attachment A. To resolve the company's apparent violations of Rule 25-4.118, F.A.C., Easy Tel has proposed to make a voluntary contribution for \$1,000 per complaint (106 complaints) for a total of \$106,000 to be deposited into the State of Florida's General Revenue Fund. To prevent future slamming violations, the company has implemented additional quality control procedures. As part of the company's quality control procedures, for all converted customers the company will contact a minimum of at least 10% of its recently converted customers to re-verify that the customers did authorize a transfer to switch to Easy Tel. The company will also no longer utilize any outbound calling agents in the State of Florida.

¹ February 22, 2011, Commission Agenda Conference, Item 4 at TR 2-3.

² Id. at TR 3-4.

Historically, settlement offers were accepted that range between \$700 and \$2,500 per violation of Rule 25-4.118, F.A.C., for a first time offense. In this instance, Easy Tel recognized and admitted that it had a marketing issue. Easy Tel was proactive and acted quickly in resolving the cause for slamming and in resolving customers' complaints. Because Easy Tel has been cooperative and its monetary offer falls within the range of prior acceptable settlement amounts, Easy Tel's proposed settlement offer to make a voluntary contribution for \$1,000 per complaint (106 complaints) for a total of \$106,000 is approved. The funds shall be deposited into the State of Florida's General Revenue Fund. Discussion between the bench and our staff also disclosed that monitoring of Easy Tel will continue including the review of monthly reports to ascertain if there are any additional complaints after December 9, 2010.³ If new complaints occur, another docket will be open with the intent to seek compliance from Easy Tel.⁴

Ruling

We find it appropriate to accept Easy Telephone Services Company's settlement offer to contribute, voluntarily, \$106,000 to resolve its apparent violations of Rule 25-4.118, F.A.C. This docket shall remain open pending the receipt of the \$106,000 settlement payment. Easy Tel must make the payment 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 the payment, it shall be forwarded to the Division of Financial Services to be deposited into the General Revenue Fund. If Easy Tel fails to pay the \$106,000 settlement within fourteen (14) calendar days after the issuance of the Consummating Order, its CLEC Certificate No. 7300 shall be revoked. This docket shall be closed administratively upon receipt of the settlement payment or revocation of the CLEC certificate.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Easy Telephone Services Company's settlement offer to contribute, voluntarily, \$106,000 to resolve its apparent violations of Rule 25-4.118, Florida Administrative Code, is accepted. It is further

ORDERED that the payment must be received 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 the payment, it shall be forwarded to the Division of Financial Services to be deposited into the General Revenue Fund. It is further

ORDERED that If Easy Tel does not pay the \$106,000 settlement within fourteen (14) calendar days after the issuance of the Consummating Order, its CLEC Certificate No. 7300 shall be revoked. It is further

³ February 22, 2011, Commission Agenda Conference, Item 4 at TR 5.

⁴ Id.

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open pending the receipt of the \$106,000 settlement payment. It is further

ORDERED that this docket shall be closed administratively upon receipt of the settlement payment or revocation of the CLEC certificate.

By ORDER of the Florida Public Service Commission this 7th day of March, 2011.



ANN COLE
Commission Clerk

(S E A L)

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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 shall 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

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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 March 28, 2011.

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.

February 9, 2011

Mr. Ray Kennedy
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Proposed Settlement of Easy Telephone Services Company
Docket No. 110029-TX

Dear Mr. Kennedy:

Thank you for your time and willingness to review the settlement of this matter.

Easy Telephone Services Company (hereinafter "Easy") has operated as a CLEC in the State of Florida for approximately 12 years. Throughout its history in Florida, there have been limited numbers of slamming complaints against Easy. Recently, we increased Easy's marketing efforts by allowing third party agents to market our services. Unfortunately, and without our knowledge, the unauthorized actions of those agents caused complaints of slamming to be filed with your agency.

Over the last six months, Easy has signed up approximately 16,432 new customers, 106 of which filed a slamming complaint. While quite small when compared to the total amount of new customers, Easy does not consider the amount insignificant, realizes the importance of addressing these complaints, and is already working on immediately rectifying the matter.

After receiving notice of the complaints in question, we worked with the agent at the source of these reports to terminate the employees who were responsible for the same. With the assurance of the agent that the removal of those employees would eliminate any future complaints, we continued working with them. As an additional safeguard, we also implemented third party verifications and internal audits of our agents. By doing so, we discovered, despite our efforts, that complaints continued to stem from this agent. We terminated the contract with that agent immediately.

Moving forward, we implemented the following additional checks and balances to prevent future complaints:

Mr. Ray Kennedy

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1. For all converted customers, we perform a quality control check by reaching out to a minimum of at least ten (10%) percent of those to re-verify that they, indeed, want to transfer service to Easy; and
2. We no longer utilize any outbound calling agents in the State of Florida. All sales are obtained from customers calling our sales department directly.

In accordance with our discussions, and in addition to the above corrective measures, Easy respectfully submits the following settlement offer in an effort to quickly resolve this matter:

1. Easy will make a voluntary payment of \$1,000.00 per complaint to the State of Florida general revenue fund for 106 slamming complaints, for a total of One Hundred Six Thousand Dollars (\$106,000.00); and
2. Easy has contacted each customer that had filed a complaint, and has ensured that full resolution to the reported issue has taken place to the customer's satisfaction.

The goal of Easy Telephone Services Company is to provide a much needed service to the community and continue to raise awareness of the Lifeline program. We believe that we have established ourselves as a reputable company and we pride ourselves on providing prompt and courteous service to our customers, and continuing to create credibility through compliance in tandem with the Public Service Commission.

We thank the Commission for its consideration, and respectfully request that it accept the above proposal. We assure you that we will remain diligent in our efforts to resolve these issues, as well as preventing similar problems from arising in the future.

Sincerely,



Joseph S. Fernandez, President