

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation of) DOCKET NO. 950468-TI
marketing practices of Excel) ORDER NO. PSC-96-0401-AS-TI
Telecommunications, Inc.) ISSUED: March 21, 1996
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER ACCEPTING OFFER OF SETTLEMENT

BY THE COMMISSION:

On April 20, 1995, the Office of Public Counsel (OPC), filed a petition to revoke the interexchange telecommunications certificate of Excel Telecommunications, Inc. (Excel), or, in the alternative, to fine Excel, for an alleged violation of Rule 25-4.118, Florida Administrative Code. Under Rule 25-4.118, Florida Administrative Code, a customer's primary interexchange carrier (PIC) may not be changed unless certain procedures are followed.

In addition to OPC's petition, between January 1, 1995, and September 30, 1995, this Commission received 35 complaints against Excel from customers alleging unauthorized PIC changes. Accordingly, by Order No. PSC-95-1470-FOF-TI, issued November 28, 1995, we required Excel to show cause why it should not be fined \$1,000 for each alleged violation of Rule 25-4.118, Florida Administrative Code, for a total of \$35,000.

On December 18, 1995, Excel filed a response to Order No. PSC-95-1470-FOF-TI. In its response, Excel denied that it has refused to comply with or willfully violated Rule 25-4.118, Florida Administrative Code. Excel, therefore, questioned this Commission's authority to impose a fine against it.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

ORDER NO. PSC-96-0401-AS-TI
DOCKET NO. 950468-TI
PAGE 2

Notwithstanding the above, on January 17, 1996, Excel filed an offer of settlement. In its offer of settlement, Excel noted that the number of complaints during the relevant time period amounted to approximately one per 4,000 letters of authorization (LOAs) processed by Excel in Florida. Excel also stated that it "is not satisfied that its performance in tracking and analyzing complaints and in responding to agency inquiries has met its own high internal standards. Accordingly, it has taken steps, including the addition of staff and comprehensive protocols, in an attempt to curtail the submission of invalid LOAs.

Excel also stated that it "believes that the interests of the public, the Commission, and Excel itself can best be served at this time through settlement." Accordingly, it has offered to make a voluntary contribution of \$10,000 to the General Revenue Fund, without admitting that it violated Rule 25-4.118, Florida Administrative Code, or any other rule or order of the Commission.

Upon consideration, we agree that it is probably in the best interests of all to settle this matter, especially since it appears that Excel has taken strong steps to curtail invalid LOAs. We, therefore, accept Excel's offer of settlement.

It is, therefore,

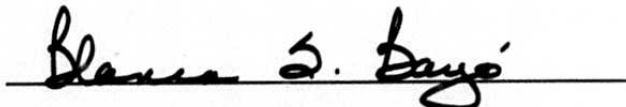
ORDERED by the Florida Public Service Commission that Excel Telecommunications, Inc.'s offer of settlement is accepted, as set forth in the body of this order. It is further

ORDERED that Excel Telecommunications, Inc. shall remit its voluntary contribution of \$10,000 in accordance with its offer of settlement. Its voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund of the State of Florida, pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that, upon verification of Excel Telecommunications, Inc.'s voluntary contribution by the staff of this Commission, this docket shall be closed.

ORDER NO. PSC-96-0401-AS-TI
DOCKET NO. 950468-TI
PAGE 3

By ORDER of the Florida Public Service Commission, this 21st
day of March, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.