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Public Service Commission

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-M-E-M-O-R-A-N-D-U-M- COMMISSION CLERK

DATE: February 18, 2004
TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director
FROM: Melinda H. Watts, Engineer III, Division of Competitive Markets & Enforcement *MWA*
RE: Docket No. 020645-TI - Compliance investigation of UKI Communications, Inc. for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, and Toll Provider Selection.

Staff sent the attached letter to the company pursuant to matters concerning Docket No. 020645-TI. Please add to the docket file accordingly.

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STATE OF FLORIDA

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



DIVISION OF COMPETITIVE MARKETS &
ENFORCEMENT
BETH W. SALAK
DIRECTOR
(850) 413-6600

Public Service Commission

January 14, 2004

CERTIFIED

Mr. Joe Vitale
UKI Communications, Inc.
100 North Biscayne Blvd., Suite 400
Miami, FL 33132-2344

Dear Mr. Vitale:

This letter is to inform you that UKI Communications, Inc. (UKI) has not met the deadline set forth in Order No. PSC-03-0990-PAA-TI (enclosed), issued on September 3, 2003, in Docket No. 020645-TI, for remitting its Regulatory Assessment Fees, with statutory penalty and interest, for the years 2000 through 2002, and its Regulatory Assessment Fees for 2003. These payments were due on December 29, 2003. UKI is required to resolve all complaints and submit a report to the Commission detailing how it has complied with all of the terms of its settlement offer by January 28, 2004. If UKI fails to resolve all of its complaints, remit all monies owed for Regulatory Assessment Fees, with statutory penalty and interest as appropriate, for 2000 through 2003, and submit its final report by January 28, 2004, staff will initiate further proceedings against the company that may result in the imposition of additional penalties or other legal actions.

If you have any questions, please contact me at (850) 413-6952.

Sincerely,

A handwritten signature in cursive script that reads "Melinda Watts".

Melinda Watts
Bureau of Service Quality

Enclosure

Ref: Docket No. 020645-TI
TMS 972

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation
of UKI Communications, Inc. for
apparent violation of Rule 25-
4.118, F.A.C., Local, Local
Toll, and Toll Provider
Selection.

DOCKET NO. 020645-TI
ORDER NO. PSC-03-0990-PAA-TI
ISSUED: September 3, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER ACCEPTING SETTLEMENT OFFER

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 March 2, 2000, UKI Communications, Inc. (UKI) obtained
interexchange company (IXC) certificate number 7332. Between
November 1, 2000, and July 24, 2003, our Consumer Affairs section
logged 319 complaint cases from consumers claiming they were
slammed by UKI. As of July 28, 2003, our staff has determined that
203 of those complaints were apparent unauthorized changes of the
primary interexchange carrier by UKI, apparent violations of Rule
25-4.118, Florida Administrative Code, Local, Local Toll, or Toll
Provider Selection.

On January 31, 2001, UKI reported \$43,520.00 in gross intrastate operating revenues for calendar year 2000. Our records indicate that UKI paid the appropriate 2000 Regulatory Assessment Fees (RAF) on this date, but did not pay the required penalty and interest due for payment remitted after the due date of January 30, 2001. Accordingly, UKI has an outstanding balance of \$3.90 for calendar year 2000.

On March 7, 2002, UKI reported \$593,855.52 in gross intrastate operating revenues for calendar year 2001. Our records indicate that UKI paid the appropriate 2001 RAFs on this date, but did not pay the required penalty and interest due for payment remitted after the due date of January 30, 2002. Accordingly, UKI has an outstanding balance of \$106.89 for calendar year 2001.

To date, UKI has 37 consumer complaints unresolved. As of August 7, 2003, UKI has not reported its calendar year 2002 revenues or remitted the appropriate RAFs, penalties and interest.

On September 19, 2002, our staff filed its recommendation in this docket for the October 1, 2002, Agenda Conference. On September 30, 2002, UKI requested a deferral from the scheduled Agenda Conference, stating it wanted to offer a settlement.

UKI submitted an offer of settlement on July 29, 2003. In lieu of paying a fine for its apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection, UKI has offered to cease operating as a telecommunications provider in Florida within 90 days after the Commission's final order approving the settlement. Further, UKI proposed the following:

1. UKI agrees that neither UKI, nor a successor corporation to UKI, will provide intrastate communications service for hire subject to the Commission's jurisdiction, or seek authority under Chapter 364, Florida Statutes, to provide such service, sooner than 3 years from the date of the final order;
2. UKI agrees that it will continue to address and resolve all pending consumer complaints;

3. UKI agrees to send a letter to each of its Florida customers notifying them that the company is exiting the market and that they must choose another local toll and/or long distance provider prior to the cessation date in order to avoid discontinuation of their service. UKI will not make any suggestions or references to its customers regarding alternate providers in the notification letter. A copy of the letter UKI proposes to send to its customers is attached to its settlement offer for review and approval by the Commission;
4. UKI agrees to pay any regulatory assessment fees, penalties, and interest owed for years 2000 through 2002, and regulatory assessment fees owed for year 2003, within 90 days of a final order approving this offer;
5. If approved, this settlement will be considered a resolution of all allegations of violations occurring as of the date of this letter; and
6. If approved, this settlement will not constitute a finding of wrongdoing.

We are vested with jurisdiction over these matters pursuant to Sections 364.285 and 364.603, Florida Statutes.

We believe that it is important to provide a brief summary of the findings in this case. Of the third party verification (TPV) tapes that UKI submitted to us in response to our staff's inquiries, none contained all of the information required by Rule 25-4.118(2)(c)2., Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. Specifically, the TPV recordings were lacking at least one or more of the elements required by subsections 1., 4., or 5. of Rule 25-4.118(3)(a), Florida Administrative Code, Local, Local Toll, or Toll Provider Selection, which state:

Subsection 1. Customer's billing name, address, and each telephone number to be changed;

Subsection 4. Statement that the customer's change request will apply only to the number on the request and there must only be one presubscribed local, one presubscribed local toll, and one presubscribed toll provider for each number;

Subsection 5. Statement that the LEC may charge a fee for each provider change.

Additionally, in all of the TPVs reviewed by our staff, we note two other apparent rule violations. First, the verifier identified the company as "United Communications." This name is not registered with the Commission or with the Florida Department of State. Rule 25-4.118(3)(a)2., Florida Administrative Code, Local, Local Toll, or Toll Provider Selection, requires that the company clearly identify itself to the customer using its certificated name.

Second, in each TPV the verifier asked the prospective customer if he or she is authorized to "use" the service. Rule 25-4.118(3)(a)3., Florida Administrative Code, Local, Local Toll, or Toll Provider Selection, requires that the verifier confirm that the person is authorized to request a "change" of providers. We believe that the word "use" in this context is distinctly different from the meaning of the word "change" as stated in the rule and is misleading to the prospective customers. Rule 25-4.118(10), Florida Administrative Code, Local, Local Toll, or Toll Provider Selection, requires that during telemarketing and verification, no misleading or deceptive references shall be made while soliciting for subscribers.

While most consumers filed complaints with this Commission verbally, a few submitted written comments, and some of those expressed their belief that UKI's use of the word "use" in the question, "Are you authorized to use this service," was indeed misleading and deceptive. Still other consumers who submitted written comments with their complaints detailed different ways that they believed UKI was deceptive or misleading in its marketing or verification.

Our staff noted, during its review of the TPVs submitted by UKI, that the telemarketer remained on the phone with the customer during verification, played a pre-recorded statement requesting some portion of the information required by Rule 25-4.118(3)(a),

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Florida Administrative Code, and when necessary prompted the customer for a response or assisted the customer with his or her response. This appears to be a violation of Rule 25-4.118(2)(c), Florida Administrative Code, which requires that a firm that is independent and unaffiliated with the provider claiming the subscriber must verify the customer's requested change after telemarketing.

We have reviewed UKI's offer of settlement. Due to the nature of the marketing and verification techniques witnessed in the complaint files, we find that UKI's offer to exit the Florida telecommunications market for a period of three years from the date of issuance of the Consummating Order is in the public interest and is satisfactory. We have also reviewed UKI's proposed letter of notification to its customers and the other terms of its offer and find that they are satisfactory.

Acceptance of this settlement offer is consistent with the previous decision in Docket Number 980165-TI, Initiation of Show Cause Proceedings Against Amer-I-Net Services Corp. For Violation Of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection, and Rule 25-4.043, Florida Administrative Code, Response To Commission Staff Inquiries.

Based on the foregoing, we accept the company's settlement offer to resolve the apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. UKI shall be required to remit all outstanding monies owed for Regulatory Assessment Fees, with the appropriate penalty and interest, within 90 days of the issuance of the Commission's Consummating Order. Additionally, UKI shall be required to file a report with us within 120 days of the issuance of the Consummating Order stating the manner in which UKI has complied with the provisions of its settlement offer and resolved all of the complaints filed against the company. UKI's registration No. TJ327, and its tariff shall be canceled, effective 90 days after the issuance of the Consummating Order.

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If UKI fails to pay the Regulatory Assessment Fees owed, with penalty and interest, within 90 days of the issuance of the Consummating Order, or fails to file a report with the Commission within 120 days of the issuance of the Consummating Order to demonstrate that it has complied with its settlement offer and that it has resolved all of the complaints filed against the company, this docket should remain open pending further proceedings.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the settlement offered by UKI Communications, Inc., attached and incorporated into this Order as Attachment A, is accepted. It is further

ORDERED that UKI shall be required to remit all outstanding monies owed for Regulatory Assessment Fees, with the appropriate penalties and interest, within 90 days of the issuance of the Commission's Consummating Order. It is further

ORDERED that UKI shall be required to file a report with this Commission within 120 days of the issuance of the Consummating Order stating the manner in which UKI has complied with the provisions of its settlement offer and resolved all of the complaints filed against the company. It is further

ORDERED that UKI Communications, Inc. shall surrender its certificate, Certificate Number 7332, and the certificate shall be canceled within 60 days of the issuance of this Order. It is further

ORDERED that UKI's registration with the Commission, No. TJ327, and its tariff shall be canceled, effective 90 days after the issuance of the Consummating Order. It is further

ORDERED that this Docket shall be closed upon the remittance of outstanding monies for Regulatory Assessment Fees, penalties and interest, the filing of the report stating the manner in which UKI has complied with the provisions of its settlement offer, resolution of all outstanding complaints, and the surrender of Certificate Number 7332.

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By ORDER of the Florida Public Service Commission this 3rd Day
of September, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: /s/ Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

SOME (OR ALL) ATTACHMENT PAGES ARE NOT ON ELECTRONIC DOCUMENT.

LHD

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,

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in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 24, 2003.

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.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Joe Vitale
 UKI Communications, Inc.
 100 North Biscayne Blvd., Suite 400
 Miami, FL 33132-2344


COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)	B. Date of Delivery
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C. Signature	<input type="checkbox"/> Agent
X	<input type="checkbox"/> Addressee

D. Is delivery address different from item 1?	<input type="checkbox"/> Yes
If YES, enter delivery address below:	<input type="checkbox"/> No

Express Mail
 Return Receipt for Merchandise
 P.O.D.

4. Restricted Delivery? (Extra Fee)	<input type="checkbox"/> Yes
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