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COMMISSION
CLERK

DATE: September 27, 2004

TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director

FROM: Dale R. Buys, Regulatory Analyst III, Division of Competitive Markets & Enforcement

RE: Docket No. 040289-TI - Compliance Investigation of Optical Telephone Corporation for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.

Please file the attached copies of the two letters addressed to Mr. Joseph A. McGlothlin, dated August 5, 2004, and September 10, 2004, in the above referenced docket file.

DRB/

Attachments

CMP _____

COM _____
cc. Office of the General Counsel (Rojas)

CTR _____

ECR _____

GCL _____

OPC _____

MMS _____

RCA _____

SCR _____

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DOCUMENT NUMBER-DATE

10440 SEP 27 2004

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STATE OF FLORIDA

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

Public Service Commission

August 5, 2004

VIA FACSIMILE: 850-222-5606

Mr. Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin,
Davidson, Kaufman & Arnold, P.A.
117 South Gadsden Street
Tallahassee, FL 32301

Re: Docket No. 040289-TI; Compliance Investigation of Optical Telephone Corporation for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.

Dear Mr. McGlothlin:

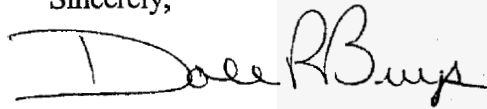
Staff completed its evaluation of the information provided by Optical Telephone Corporation (Optical) in response to staff's recommendation filed on May 6, 2004, in the above referenced docket. It is staff's understanding that Optical's position is that all thirty-four apparent slamming violations occurred prior to the point in time when OTC committed to staff that the company would change its practices to comply with the Commission's slamming rules (July 2002). However, staff determined that nine (9) out of the thirty-four apparent violations occurred after July 2002. In addition, fourteen (14) of the complaints appear to be cramming violations as opposed to slamming violations, also occurring after July 2002. Staff concurs that seven (7) of the apparent slamming violations did occur prior to July 2002, and staff is willing to eliminate them from consideration.

Please refer to the enclosed chart which describes staff's position on each complaint. In most of the complaints denoted as crams, it appears the customers were billed for a long distance connection fee and a monthly fee, plus taxes, in March and April 2003. Please provide staff with an explanation as to why the customers were billed by Optical when they apparently were not Optical's customers.

Mr. Joseph A. McGlothlin
Page 2
August 5, 2004

In an effort to resolve the issues in this docket, staff requests that we schedule a meeting with the parties to discuss a possible settlement. Please contact us at your earliest convenience to schedule a meeting.

Sincerely,



Dale R. Buys
Regulatory Analyst
Bureau of Service Quality

Tel: (850) 413-6536
Fax: (850) 413-6537
Email: dbuys@psc.state.fl.us

cc: Office of the General Counsel (L. Fordham, Rojas, Teitzman)

Enclosure

TMS # 1575

COMMISSIONERS:
BRAULIO L. BAEZ, CHAIRMAN
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STATE OF FLORIDA



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

Public Service Commission

September 10, 2004

VIA FACSIMILE
(850) 222-5606

Mr. Joseph A. McGlothlin
McWhirter, Reeves, McGlothlin, Davidson, Kaufman & Arnold, P.A.
117 South Gadsden Street
Tallahassee, FL 32301

Re: Docket No. 040289-TI; Compliance Investigation of Optical Telephone Corporation for apparent slamming violations.

Dear Mr. McGlothlin:

As you expressed to staff, Optical Telephone Corporation (Optical) has some questions regarding the information (a table listing all PIC change dates for the alleged slams) enclosed with staff's letter of August 5, 2004. For the past several weeks, staff and Optical have attempted to schedule a telephone conference call so that staff may answer Optical's questions. The latest conference call was scheduled for today at 10:00 a.m., but Optical was unavailable. Please contact staff to reschedule the conference call. Staff requests that the new conference call be scheduled no later than Thursday, September 16, 2004, and include the discussion of a possible settlement proposal. If Optical is unable to participate prior to the requested date, staff intends to file a recommendation in the above referenced docket on September 23, 2004, for the October 5, 2004, Agenda Conference. Please contact us should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Dale R. Buys".

Dale R. Buys
Regulatory Analyst
Bureau of Service Quality

Tel: (850) 413-6536
Fax: (850) 413-6537
Email: dbuys@psc.state.fl.us

TMS # 1612