

WIGGINS & VILLACORTA, P.A.
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March 11, 1999

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99 MAR 11 PM 4:05
RECORDS AND REPORTING

VIA HAND DELIVERY

Mr. Blanca Bayo
Director of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 971490-TI - Initiation of Show Cause Proceedings Against Excel Telecommunications, Inc. for Violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

Dear Ms. Bayo:

Pursuant to Order No. PSC-99-0368-AS-TI, Order Approving Settlement in the above-referenced matter, Excel Telecommunications, Inc. tenders its voluntary contribution in the amount of \$68,000.00 payable to the State of Florida General Revenue Fund.

Please stamp the enclosed copy of this transmittal letter received and return to my office. If you have any questions, please do not hesitate to ask.

Thank you for your assistance in this matter.

RECEIVED & FILED

FPSC BUREAU OF RECORDS

Sincerely,

Patrick Knight Wiggins

Patrick Knight Wiggins
Attorneys for Excel Telecommunications,
Inc.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU 1 _____
- CTR _____
- EAG _____
- LEG 1 PKW:plk
- LIN Enclosures
- OPR _____
- RCR _____
- SEC 1 _____
- WAS _____
- OTH _____

Check this box if you are enclosing a check for deposit.
Enclosure check is not checked.
to be deposited in the bank.
the enclosed check forwarded check:
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DOCUMENT NUMBER-DATE

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RAR
Kathy Bingson

[Signature]
FPSC BUREAU OF RECORDS

Sincerely,

Patrick Knight Wiggins
Patrick Knight Wiggins
Attorneys for Excel Telecommunications,
Inc.

PKW:plk
Enclosures

Initials of person who forwarded check:

WIGGINS & VILLACORTA, P.A.
ATTORNEYS AT LAW

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RECEIVED & FILED

RAR
Kody Bingson

EXCEL MANAGEMENT SERVICE, INC.
P.O. BOX 650582
DALLAS, TX 75265-0582

MELLON FINANCIAL
20 CABOT ROAD
MEDFORD, MA 02155

53-292
113

Check Number

0009000952

Date

03/08/1999

Sixty eight thousand and 00/100 Dollars

Pay to the order of

STATE OF FLORIDA
GENERAL REVENUE FUND

Vendor ID

028197

Payment Amount

*****\$68,000.00

Void After 90 Days

Ken A. Tronzo

Docket No. 971490-TI
Order PSC-99-036-AS-TI 2/22/99 Voluntary Contribution

From: Kelly Biegalski
To: Pat Page
Subject: Excel check

---NOTE-----3/12/99--9:07am---

It is ok to deposit this check

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Excel Telecommunications, Inc. for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

DOCKET NO. 971490-TI
ORDER NO. PSC-99-0368-AS-TI
ISSUED: February 22, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARZA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

Background

Excel Telecommunications, Inc. (Excel), Certificate No. 2440, is a provider of interexchange telecommunications service and was certificated on March 21, 1990. Excel reported gross operating revenues of \$73,584,960 and intrastate revenues of \$16,088,967 on its Regulatory Assessment Fee Return for the period January 1, 1997, through December 31, 1997. As a provider of interexchange telecommunications service in Florida, Excel is subject to the rules and regulations of this Commission.

For the period April 1, 1996, through April 9, 1998, the Commission staff received 37 complaints against Excel that were determined to be apparent unauthorized carrier change (slamming) infractions in violation of Rule 25-4.118, Florida Administrative Code. Based on the number of complaints received and the number of apparent slamming violations, the Commission issued Order No. PSC-98-1000-SC-TI, on July 22, 1998, requiring Excel to show cause why it should not have certificate number 2440 canceled or be fined \$1,110,000 for 37 apparent violations of Rule 25-4.118, Florida

Administrative Code. On August 11, 1998, Excel filed a timely response to the Show Cause Order and a Motion for More Definite Statement. On December 17, 1998, Excel submitted an offer of settlement which is attached as Attachment A and incorporated herein by reference.

Motion for More Definite Statement

When Excel filed its response to the Commission's Show Cause Order, it also filed a Motion for More Definite Statement. Since we have approved Excel's Offer of Settlement, the outstanding Motion has become moot.

Settlement Terms

On December 17, 1998, Excel submitted an offer to settle. In its settlement offer Excel agreed to do the following:

1. Excel will establish a toll-free slamming awareness hotline.
2. Excel will cooperate with the Commission in establishing a system whereby customers calling the Commission with complaints of unauthorized PIC changes may be transferred directly to Excel's toll-free line with the goal of prompt resolution.
3. Excel commits to engaging in ongoing dialogue and quarterly reviews, conducted by conference call if appropriate, with Commission staff of complaints lodged against it with the Commission.
4. Excel will file civil actions in Florida against Independent Representatives (IRs) who cheat Excel and customers by submitting forged LOAs.
5. Excel will determine whether data bases are available under public records law or on some more cost-effective basis so that cross-verification of LOAs against social security numbers or drivers license numbers can be performed routinely.
6. Excel will create an award program that encourages error free completion of LOAs.

7. Whenever Excel has reason to believe that an IR has forged an LOA, as a normal part of its investigation, Excel will review the validity of every LOA submitted by that IR during the preceding six months.
8. Excel will make a contribution of \$68,000 to the general revenue fund of the State of Florida with no admission of liability or wrongdoing.

We support Excel's proposal to establish a toll-free slamming awareness number in addition to establishing a warm transfer system with the Commission for consumer complaints. We find this will allow for expedited resolution of those consumer complaints. We also support Excel's proposal to file civil action against IRs who forge LOAs because we believe this will encourage Excel representatives to be extremely more accurate when completing LOAs. Furthermore, we support Excel's proposal to re-evaluate LOAs previously submitted by an IR who appears to have forged an LOA because this will enable Excel to determine whether a pattern of behavior exists.

The company has satisfactorily addressed all our concerns. Therefore, we find the terms of the settlement agreement to be fair and reasonable. Accordingly, the offer of settlement submitted by Excel on December 17, 1998, is approved.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the offer of settlement dated December 17, 1998, by Excel Telecommunications, Inc. is hereby approved. It is further

ORDERED that this docket shall remain open pending the remittance of the \$68,000 voluntary contribution. The voluntary contribution shall be submitted within five business days after the Order Approving Settlement becomes final. Upon remittance, the \$68,000 voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes, and this docket may be closed administratively.

ORDER NO. PSC-99-0368-AS-TI
DOCKET NO. 971490-TI
PAGE 4

By ORDER of the Florida Public Service Commission this 22nd
day of February, 1999.

/s/ Blanca S. Bayó
BLANCA S. BAYÓ, Director
Division of Records and Reporting

This is a facsimile copy. A signed
copy of the order may be obtained by
calling 1-850-413-6770.

(S E A L)

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

CB

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 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.