

ORIGINAL

CLF 67bk
(Rev. 12/03/03)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI
Cochran U.S. Bankruptcy Courthouse
703 Highway 145 North
Aberdeen, MS 39730
Telephone: 662-369-2596

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI

STANDING ORDER DELEGATING CERTAIN NOTICING RESPONSIBILITIES

WHEREAS, Rule 2002, Rules 9013 and 9014, Federal Rules of Bankruptcy Procedure, and certain other provisions of law and language included in the Federal Rules of Bankruptcy Procedure authorize this Court to delegate certain noticing responsibilities as the Court may direct; it is

ORDERED as follows:

(1) The plan proponent shall give the debtor, the trustee, the U.S. Trustee, all creditors and indenture trustees no less than 25 days notice by mail of (a) the time fixed for filing objections and the hearing to consider approval of a disclosure statement; and (b) the time fixed for filing objections and hearing to consider confirmation of a plan;

(2) The moving party shall give the debtor, the trustee, the U.S. Trustee, all creditors and indenture trustees (except as otherwise expressly provided by law, Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules, or another order of this court), not less than 20 days notice by mail of the date when objections must be filed in all contested matters (i.e., all matters other than adversary proceedings) except as to motions for relief from the automatic stay under 11 U.S.C. Sec. 362 and motions to avoid liens under 11 U.S.C. Sec. 522(f); and

(3) The moving party shall give the debtor, the trustee, the U.S. Trustee, all creditors and indenture trustees (except as otherwise expressly provided by law, Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules, or another order of this court), not less than 20 days notice by mail of the date when objections must be filed in all contested matters (i.e., all matters other than adversary proceedings) except as to motions for relief from the automatic stay under 11 U.S.C. Sec. 362 and motions to avoid liens under 11 U.S.C. Sec. 522(f); and

(4) Within five (5) business days from the issuance of the appropriate Notice of Motion for Relief from Stay or for Adequate Protection in a Chapter 11 case, the moving party shall serve a copy of the Chapter 11 Motion, along with said Notice (provided by the Clerk of this court) upon the debtor, the attorney of record for the debtor, the trustee, if any, the U.S. Trustee, all holders of liens on any property as to which relief is sought, all members of the unsecured creditors' committee, if any, and the attorney for said committee, if any. A copy of said motion and said notice of hearing shall be served on the twenty (20) largest unsecured creditors (per enclosed matrix) if there is no unsecured creditors' committee.

The moving party shall file in the office of the Clerk of this court, within five (5) business days from the date of issuance of said notice, a certificate of service, with a copy of the materials served, that states upon whom the materials were served and the date of service. It is the responsibility of the moving party, not the Clerk of this court, to ascertain the names and addresses of the parties to be served.

DATED: April 9, 2004

/s/
DAVID W. HOUSTON, III
JUDGE, U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI

In Re: Long Distance Billing Service, Inc.
Debtor(s)

Case No.: 05-11168
Chapter: 11
Judge: David W. Houston III

PLEASE TAKE NOTICE that a hearing will be held at

Greenville Federal Building, Greenville, MS

on 7/22/05 at 09:00 AM

Responses Due: 7/18/05

to consider and act upon the following:

68 - Motion to Compel Escrow of Universal Service Fund Fees Collected by Debtor.
Filed by Douglas C. Noble on behalf of Universal Service Administrative Company.
(Entered on Docket by: Hodges, Janet)

Should any party receiving this notice respond or object to said motion such response or objection is required to be filed with the Clerk of this court and served on the Attorney for Movant on or before said response due date. If any objection or response is filed, a hearing will be held on the above mentioned date; otherwise, the Court may consider said motion immediately after the objection or response due date.

A copy of the motion is required to be served pursuant to Rules 9013 and 9014, FRBP. THE MOVING PARTY'S ATTORNEY IS REQUIRED BY THE STANDING ORDER ATTACHED HERETO TO PERFORM NOTICING AS TO SAID MOTION, THE NOTICE OF HEARING, AND THE OBJECTION DEADLINE, ACCORDING TO THE TERMS OF SAID STANDING ORDER.

Dated: 6/30/05

Joseph Wroten
Clerk, U.S. Bankruptcy Court
BY: Janet Hodges
Deputy Clerk

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI
(ABERDEEN DIVISION)

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In re:

LONG DISTANCE BILLING SERVICE,
INC.

Debtor.

Chapter 11
Case No. 05-11168-DWH

**UNIVERSAL SERVICE ADMINISTRATIVE COMPANY'S
MOTION TO COMPEL ESCROW OF UNIVERSAL
SERVICE FUND FEES COLLECTED BY DEBTOR
(Hearing Requested on July 22, 2005)**

NOW COMES Universal Service Administrative Company ("USAC") and hereby requests, pursuant to § 105 of the United States Bankruptcy Code, that this Court enter an Order requiring the Debtor to deposit into an escrow account all fees collected from its customers for the purpose of contribution to the Universal Service Fund ("USF"). USAC has previously filed a Motion for Allowance and Immediate Payment of Administrative Expense Claim (the "Administrative Claim Motion"). The Court has scheduled a hearing on the Administrative Claim Motion for July 22, 2005. USAC requests that the instant Motion also be heard on July 22, 2005.

In support of this motion, USAC respectfully states as follows:

FACTUAL BACKGROUND

1. On or about February 22, 2005 (the "Petition Date"), Long Distance Billing Service, Inc. (the "Debtor") commenced the above-captioned bankruptcy proceeding by filing a

voluntary petition under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101-1330 (the "Bankruptcy Code").

2. Prior to the Debtor's Petition Date, on July 30, 2002, EzTel, LLC filed a voluntary petition under Chapter 11 of the Bankruptcy Code (case no. 02-14612). Upon information and belief, EzTel, LLC is the parent company of the Debtor.

3. EzTel, LLC is also the parent company of several other companies which are currently Chapter 11 debtors before the Northern District of Mississippi, including MaxTel, LLC, EzTel Network Services, LLC, EzTel Communications, LLC, and EzTel Networks LLC (collectively with EzTel, LLC, the "EzTel Entities").¹

4. Pursuant to a proposed joint plan of reorganization (the "EzTel Plan") and related disclosure statement (the "EzTel Disclosure Statement") pending in the bankruptcy proceedings of the EzTel Entities, the EzTel Entities have requested that they be substantively consolidated. Pursuant to an October 29, 2004 Order of this Court, the Chapter 11 cases of the EzTel Entities are being jointly administered.

5. The Debtor's case has not been administratively consolidated with the EzTel Entities' cases, nor does the EzTel Plan request substantive consolidation of the Debtor's estate with the estates of the EzTel Entities.

6. USAC is also a creditor in the bankruptcy proceedings of the EzTel Entities, and has asserted both administrative and pre-petition claims. After numerous hearings in connection with USAC's administrative claims, this Court entered an Order which provides that, *inter alia*, the EzTel Entities shall timely pay all current USAC administrative charges, and further that if

¹ The case numbers for the EzTel entities are as follows: MaxTel USA, Inc. (case no. 02-14610), EzTel Communications, LLC (case no. 02-14611), EzTel Networks, LLC (case no. 02-14613), and EzTel Network Services, LLC (case no. 02-14614). The EzTel Entities are currently jointly administered under the EzTel LLC docket number.

such payments are not made, the Court will convert the EzTel Entities' Chapter 11 cases to cases under Chapter 7 of the Bankruptcy Code.

7. USAC has objected to approval of the EzTel Disclosure Statement based on, *inter alia*, inadequate disclosures regarding USAC's administrative claims and the questionable ability of the EzTel Entities to fund the EzTel Plan. This Court has scheduled a hearing on EzTel's Disclosure Statement for July 22, 2005.

DESCRIPTION OF USAC'S INVOICING PROCEDURES

8. USAC is a Delaware not-for-profit corporation which administers the Universal Service Fund (the "USF") under the direction of the Federal Communications Commission ("FCC") 47 C.F.R. § 54.701(a) (2004). The USF is generated through mandatory contributions from all U.S. telecommunications carriers based on, *inter alia*, a percentage of their interstate and international end-use telecommunication revenues. *Id.* The FCC directs all U.S. telecommunication carriers to submit such information to USAC on a quarterly and annual basis using a "Telecommunications Reporting Worksheet." 47 C.F.R. § 54.711. The Telecommunications Reporting Worksheets and accompanying Instructions (the "Worksheet Instructions") are published in the Federal Register and set forth detailed reporting requirements concerning the information carriers are required to submit to USAC on a quarterly and annual basis. *Id.*

9. Upon receiving and reviewing carriers' quarterly Telecommunications Reporting Worksheet (the "Quarterly Revenue Report"), USAC calculates each carrier's monthly USF obligation for the upcoming quarter and then invoices the carriers for their contributions to the USF on a monthly basis (the "USF Obligations"). USAC deposits the contributions into the USF, and eligible applicants may seek disbursements of funds pursuant to the universal service

support mechanisms. Carriers typically recover their USF contributions from their end-user customers through a line-item on customer bills as they are expressly permitted to do by regulation. See 47 C.F.R. § 54.712.

10. After calendar year-end, in April of the following year, carriers must report annual revenue data for the prior year on an annual Telecommunications Reporting Worksheet (the "Annual Revenue Report"), which USAC then uses to perform a "true-up" by comparing the Annual Revenue Report to the previously reported Quarterly Revenue Reports (the "Annual True-up"). In the event that a carrier's reported annual revenues are lower than the revenues reported previously for that year on the Quarterly Revenue Reports, USAC issues Annual True-up credits to that carrier. Alternatively, if a carrier's reported annual revenues are higher than reported previously in the carrier's Quarterly Revenue Reports, USAC issues Annual True-up adjustments to that carrier. These Annual True-up credits or adjustments appear in three equal amounts on the July, August and September invoices of that subsequent year.²

11. In the event that a carrier has filed for bankruptcy protection during the year covered by the Annual True-up, USAC will determine the amount of adjustments or credits that are appropriately associated with the pre-petition period. After all of the credits or adjustments have posted to a carrier's account (generally by September or October of each year), USAC reverses the pre-petition portion of the credits or adjustments and files a corresponding amendment to its pre-petition proof of claim.

² A similar process is followed in the event a carrier revises an Annual Revenue Report, something which is permitted up until one year from the original filing due date. See *In re Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms: Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 98-43, 98-171, 97-21, DA 04-3669 (2004) (adopting one-year revision deadline for Annual Revenue Report).

ARGUMENT

12. The USF contribution obligation lies with the telecommunications provider. As noted above, however, companies are permitted to, and typically do, pass on to end-user consumers some or all of their USF contribution obligations in the form of surcharges or line items on their monthly invoices. As described in greater detail below, USAC believes that the Debtor may be collecting funds from customers through a USF line item on the customers' invoices for the explicit purpose of contributing those funds to the USF.³ By collecting such charges while failing to pay USAC's invoices, however, the Debtor is diverting to the Debtor's general operating budget funds that the Debtor is collecting from its end-user customers for purposes of contributing to the USF.

13. The Debtor is permitted by law to collect USF contribution costs from end user customers for the sole purpose of contribution to the USF. See 47 C.F.R. § 54.712. Here, the Debtor appears to be representing to its end-user customers that the USF line item is being used for that purpose and, presumably, customers are making payments to the Debtor which include USF contributions. Nevertheless, the Debtor has failed to make any contributions to the USF since well before the Petition Date.

14. If the Debtor is allowed to continue to operate without paying its USF contributions while it is collecting such charges from its end user customers, USF contributions will continue to be improperly and unlawfully diverted to the Debtor. In addition, consumers will continue to be misled as to the nature of the line item on their monthly invoices.

15. This Court should require that the Debtor pay its USF fees to USAC immediately, as USAC has requested in its Administrative Claim Motion. Alternatively, or in the interim period until such payments are made in full, this Court should require the Debtor to place into an escrow account all USF fees which it receives. Unless this Court directs the escrow of USF contributions, the Debtor will likely continue to use those contributions for its general operations without concern for the USF. Notably, in the related Chapter 11 proceedings of the EzTel Entities, the debtors failed to make contributions to the USF for approximately two years during their Chapter 11 proceedings. The EzTel entities began to make USF contributions only after numerous requests by USAC and a stringent Order from this Court.

WHEREFORE, USAC respectfully requests that this Court enter an Order:

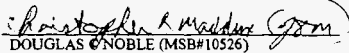
- a. Requiring the Debtor to immediately pay all outstanding obligations reflected on USAC's June 22, 2005 invoice, as contemplated by USAC's Administrative Claim Motion;
- b. Requiring the Debtor to pay all future charges to USAC as contemplated by USAC's Administrative Claim Motion;
- c. Requiring the Debtor to escrow all USF funds collected from end users; and
- d. Granting such other and further relief as is just.

³ The applicable Federal regulation provides that "...universal service contribution costs may be recovered through interstate telecommunications-related charges to end users. If a telecommunications carrier chooses to recover its federal universal service contribution costs through a line item on a customer's bill ... the amount of the federal universal service line-item charge may not exceed the interstate telecommunications portion of that customer's bill times the relevant contribution factor." 47 C.F.R. § 54.712.

Respectfully submitted,

UNIVERSAL SERVICE ADMINISTRATIVE
COMPANY

By its counsel,


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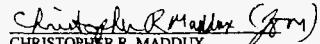
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CERTIFICATE OF SERVICE

I, Christopher R. Maddux, hereby certify that I have on this the 30th of June, 2005 mailed a true and correct copy of the foregoing, postage prepaid, via U.S. Mail, to the following:

Craig M. Geno
Jeffrey K. Tyree
Melanie T. Vardaman
Harris & Geno, PLLC
P.O. Box 3380
Ridgeland, MS 39158

Sammye S. Tharpe
Office of the United States Trustee
100 West Capitol Street, Suite 706
Jackson, MS 39269-1601


CHRISTOPHER R. MADDUX

Dated: June 30, 2005