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State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

COMMISSION
CLERK

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

DATE: February 10, 2011

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Analysis (Curry) *KLC*
Office of the General Counsel (Evans, Tan) *Pere* *AT*

RE: Docket No. 110029-TX – Compliance investigation of Easy Telephone Services Company for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.

AGENDA: 02/22/11 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RAD\WP\110029.RCM.DOC

Case Background

Easy Telephone Services Company (Easy Tel) is a competitive local exchange company (CLEC) and is authorized by this Commission, pursuant to CLEC Certificate No. 7300, to provide local exchange telecommunications services in Florida. On March 26, 2010, Easy Tel received authorization from the Commission to serve as an Eligible Telecommunications Carrier (ETC) in Florida.

In late August 2010, the Florida Public Service Commission (Commission) began receiving unauthorized carrier change (slamming) complaints against Easy Tel. As of January 19, 2011, 106 slamming complaints have been filed against the company.

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Upon receiving each complaint staff forwarded the complaints to the company for resolution. After reviewing the complaints, Easy Tel informed staff that the unauthorized switches occurred because of a problem with the company's marketing agent. According to Easy Tel, the company determined its marketing agent was converting prospective customers to Easy Tel without the customers' authorization. To rectify this problem, Easy Tel began withholding the agent's commission for all customers whose local phone service was switched to Easy Tel by the marketing agent without the customer's authorization. Employees of the agent who were determined to have switched customers without proper authorization were also terminated. However, despite Easy Tel's efforts, the problem continued and became worse.

On December 7, 2010, staff met with representatives from Easy Tel. During that meeting, staff informed Easy Tel of the slamming problem. The company's representatives acknowledged that they were aware of the issue and had taken steps to resolve the matter. Easy Tel informed staff that effective December 9, 2010, the marketing agent would be terminated and would no longer provide marketing services for the company.

While the Commission has received several slamming complaints against Easy Tel after the date that the marketing agent was terminated, the complaints received were in regards to unauthorized switches that were made prior to December 9, 2010. It appears that Easy Tel's slamming issues ceased once the marketing agent was terminated. Easy Tel has worked with staff to resolve all of the slamming complaints that were filed against the company. On February 9, 2011, Easy Tel also submitted a proposed settlement offer to resolve the company's apparent slamming violations.

This recommendation addresses Easy Tel's settlement proposal. The Commission is vested with jurisdiction over this matter pursuant to Sections 364.02(13), 364.04, 364.285 and 364.603, Florida Statutes (F.S.). Accordingly, staff believes the following recommendations are appropriate.

Discussion of Issues

Issue 1: Should the Commission accept Easy Telephone Services Company's settlement offer to resolve one-hundred six (106) apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection?

Recommendation: Yes, the Commission should accept Easy Telephone Services Company's settlement offer to resolve one-hundred six (106) apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. **(Curry, Evans, Tan)**

Staff Analysis: Between August 30, 2010 and January 19, 2011, the Commission received 106 slamming complaints against Easy Tel. As stated in the case background, Easy Tel informed staff that the slamming complaints filed against the company were the result of its marketing agent switching customers to Easy Tel without proper authorization. On December 9, 2010, after determining that the marketing agent was switching customers without proper authorization, the agent was terminated.

On February 9, 2011, staff received a proposed settlement offer (Attachment A). To resolve the company's apparent violations of Rule 25-4.118, F.A.C., Easy Tel has proposed to make a voluntary contribution in the amount of \$1,000 per complaint (106 complaints) for a total of \$106,000 to the Commission to be deposited into the State of Florida's General Revenue Fund. To prevent future slamming violations, the company has implemented additional quality control procedures. As part of the company's quality control procedures, for all converted customers the company will contact a minimum of at least 10% of its recently converted customers to re-verify that the customers did authorize a transfer to switch to Easy Tel. The company will also no longer utilize any outbound calling agents in the State of Florida.

Historically, the Commission has accepted settlement offers that range between \$700 and \$2,500 per violation of Rule 25-4.118, F.A.C., for a first time offense. In this instance, Easy Tel recognized and admitted that they had a marketing issue. Easy Tel has been proactive with staff, quickly resolving the cause for slamming and in resolving customer complaints. Because Easy Tel has been cooperative and its monetary offer falls within the range of prior settlement amounts accepted by the Commission, staff believes that the Commission should accept Easy Tel's proposed settlement offer to make a voluntary contribution in the amount of \$1,000 per complaint (106 complaints) for a total of \$106,000 to be deposited into the State of Florida's General Revenue Fund.

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Issue 2: Should this docket be closed?

Recommendation: If the Commission approves staff's recommendation on Issue 1 this docket should remain open pending the receipt of the \$106,000 settlement payment. The payment should be received by the Commission within fourteen (14) calendar days after the issuance of the Consummating Order. The payment should be made payable to the Florida Public Service Commission and should identify the docket number and the company's name. Upon receipt of the payment, the Commission shall forward it to the Division of Financial Services to be deposited into the General Revenue Fund. If Easy Tel fails to pay the \$106,000 settlement within fourteen (14) calendar days after the issuance of the Consummating Order, its CLEC Certificate No. 7300 should be revoked. This docket should be closed administratively upon receipt of the settlement payment or revocation of the CLEC certificate. **(Evans, Tan)**

Staff Analysis: Staff recommends that the Commission take action as set forth in the above staff recommendation.

February 9, 2011

Mr. Ray Kennedy
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Proposed Settlement of Easy Telephone Services Company
Docket No. 110029-TX

Dear Mr. Kennedy:

Thank you for your time and willingness to review the settlement of this matter.

Easy Telephone Services Company (hereinafter "Easy") has operated as a CLEC in the State of Florida for approximately 12 years. Throughout its history in Florida, there have been limited numbers of slamming complaints against Easy. Recently, we increased Easy's marketing efforts by allowing third party agents to market our services. Unfortunately, and without our knowledge, the unauthorized actions of those agents caused complaints of slamming to be filed with your agency.

Over the last six months, Easy has signed up approximately 16,432 new customers, 106 of which filed a slamming complaint. While quite small when compared to the total amount of new customers, Easy does not consider the amount insignificant, realizes the importance of addressing these complaints, and is already working on immediately rectifying the matter.

After receiving notice of the complaints in question, we worked with the agent at the source of these reports to terminate the employees who were responsible for the same. With the assurance of the agent that the removal of those employees would eliminate any future complaints, we continued working with them. As an additional safeguard, we also implemented third party verifications and internal audits of our agents. By doing so, we discovered, despite our efforts, that complaints continued to stem from this agent. We terminated the contract with that agent immediately.

Moving forward, we implemented the following additional checks and balances to prevent future complaints:

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1. For all converted customers, we perform a quality control check by reaching out to a minimum of at least ten (10%) percent of those to re-verify that they, indeed, want to transfer service to Easy; and
2. We no longer utilize any outbound calling agents in the State of Florida. All sales are obtained from customers calling our sales department directly.

In accordance with our discussions, and in addition to the above corrective measures, Easy respectfully submits the following settlement offer in an effort to quickly resolve this matter:

1. Easy will make a voluntary payment of \$1,000.00 per complaint to the State of Florida general revenue fund for 106 slamming complaints, for a total of One Hundred Six Thousand Dollars (\$106,000.00); and
2. Easy has contacted each customer that had filed a complaint, and has ensured that full resolution to the reported issue has taken place to the customer's satisfaction.

The goal of Easy Telephone Services Company is to provide a much needed service to the community and continue to raise awareness of the Lifeline program. We believe that we have established ourselves as a reputable company and we pride ourselves on providing prompt and courteous service to our customers, and continuing to create credibility through compliance in tandem with the Public Service Commission.

We thank the Commission for its consideration, and respectfully request that it accept the above proposal. We assure you that we will remain diligent in our efforts to resolve these issues, as well as preventing similar problems from arising in the future.

Sincerely,



Joseph S. Fernandez, President