- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Investigation of Customer Complaints and Compliance with Commission Administrative Rules by MCLEOD USA TELEPHONE SERVICES	))))	DOCKET NO. 02-2249-06 REPORT AND ORDER

ISSUED: March 20, 2003

By the Commission:

PROCEDURAL HISTORY

On December 31, 2002, the Division of Public Utilities ("Division") filed a Petition, pursuant to *Utah Code Annotated* §54-4a-1, for an Order to Show Cause why McLeod USA Telephone Services ("McLeod") should not be fined for failing to timely respond, as required by Commission rule, to informal customer complaints filed with the Division. At the request of the parties, the time for McLeod to file a response was extended twice. A Notice of Hearing and Order to Show Cause was issued on March 7, 2003, setting a hearing for April 3. 2003.

On March 12, 2003, the Division and McLeod filed a Settlement Agreement and Motion for Adoption of Settlement Agreement and Dismissal with Prejudice (the "Settlement Agreement"). The Settlement Agreement states that:

1. The Division and McLeod have resolved all of the underlying customer complaints.

2. The Division and McLeod have agreed to procedures to resolve future complaints more expeditiously, and to improve communication between those parties.

3. McLeod agrees to pay the State of Utah a settlement payment of $50,000.

4. The Division recommends that its Petition be dismissed with prejudice.

DISCUSSION

Settlement of matters before the Commission is encouraged. *Utah Code Ann*. § 54-7-1. See also *Utah Dept. of Admin. Services v. Public Service Commission*, 658 P.2d 601, 613-14 (Utah 1983). The Commission may approve a stipulation or settlement after considering the interests of the public and other affected persons if it finds the stipulation or settlement is in the public interest. *Id*.

This matter involved numerous customer complaint matters that the Division alleged that McLeod did not respond to in the time required by Commission rule. The Settlement Agreement states that all of the underlying customer complaints have been resolved. In addition, improved procedures to resolve any future complaints more expeditiously have been agreed to which should help customer resolve matters quicker, and also avoid future actions before the Commission like the present one. McLeod has also agreed to pay the State of Utah $50,000, an amount we find reasonable under the circumstances of this settlement. The terms of the Settlement Agreement should improve the handling of any future customer complaints involving McLeod. The Settlement Agreement appears to be in the public interest and should be approved.

Based upon the foregoing, and good cause appearing, the Administrative Law Judge enters the following recommended order:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that:

1. The Settlement Agreement is accepted and approved, and is adopted as part of this Order.

2. McLeod shall pay to the State of Utah $50,000 within 30 days of the date of this Order.

3. The Petition in this matter is dismissed with prejudice.

4. Pursuant to Utah Code Ann. § 63-46b-13, an aggrieved party may file, within 20 days after the date of this Order, a written request for rehearing or reconsideration by the Commission. Pursuant to Utah Code Ann. § 54-7-15, failure to file such a request precludes judicial review of the Order. If the Commission fails to issue an order within 20 days after the filing of such a request, the request shall be deemed denied. Judicial review of this Order may be sought pursuant to the Utah Administrative Procedures Act (Utah Code Ann. §§ 63-46b-1 et seq.)

DATED at Salt Lake City, Utah, this 20th day of March, 2003.

/s/ Douglas C. Tingey
Administrative Law Judge

Approved and Confirmed this 20th day of March, 2003, as the Report and Order of the Public Service Commission of Utah.

/s/ Stephen F. Mecham, Chairman

/s/ Constance B. White, Commissioner

/s/ Richard M. Campbell, Commissioner

Attest:

/s/ Julie Orchard
Commission Secretary

G#33104