

-BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH-

In the Matter of the Investigation of Customer)
Complaints and Compliance with Commission)
Administrative Rules by EXCEL)
TELECOMMUNICATIONS INC.)

DOCKET NO. 03-2214-01
REPORT AND ORDER

ISSUED: May 1, 2003

By the Commission:

PROCEDURAL HISTORY

On January 2, 2003, the Division of Public Utilities ("Division") filed a Petition, pursuant to *Utah Code Annotated* §54-4a-1, for an Order to Show Cause why Excel Telecommunications Inc. ("Excel") should not be fined for failing to timely respond, as required by Commission rule, to informal customer complaints filed with the Division. An Order to Show Cause was issued, and a hearing date set. On March 18, 2003, the Division filed an Amended Petition for an Order to Show Cause. On March 21, 2003, the parties moved for suspension of the hearing date and stated that they had agreed in principle to the terms of settlement. The hearing was accordingly canceled. On April 29, 2003, Excel and the Division filed a Settlement Agreement and Motion for Adoption of Settlement Agreement and Dismissal with Prejudice ("Settlement Agreement").

The Settlement Agreement states, in part, that:

1. The Division and Excel have resolved all of the underlying customer complaints.
2. The Division and Excel have agreed to procedures to resolve future complaints more expeditiously, and to improve communication between those parties.
3. Excel agrees to pay the State of Utah a settlement payment of \$10,000.
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 customer complaint matters that the Division alleged that Excel 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. Excel has also agreed to pay the State of Utah \$10,000, 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 Excel. 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. Excel shall pay to the State of Utah \$10,000 within 30 days of the date of this Order.
3. The Petition in this matter is dismissed with prejudice.
4. Any person aggrieved by this Order may petition the Commission for review/rehearing pursuant to the *Utah Administrative Procedures Act, Utah Code Ann. §63-46b-1 et seq.* Failure so to do will preclude judicial review of the grounds not identified for review. *Utah Code Ann. §54-7-15.*

DATED at Salt Lake City, Utah, this 1st day of May, 2003.

/s/ Douglas C. Tingey
Administrative Law Judge

Approved and Confirmed this 1st day of May, 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

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