

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ACCUTEL COMMUNICATIONS, INC. )  
\_\_\_\_\_) ) CASE NO. 2000-133  
)  
ALLEGED VIOLATION(S) OF KRS 278.535 )  
SWITCHING OF TELECOMMUNICATIONS )  
PROVIDER )

O R D E R

Accutel Communications, Inc. ("Accutel") is a communications provider as defined in KRS 278.535(1)(a), is authorized to do business in Kentucky, and is subject to the Commission's jurisdiction. Accutel is a foreign corporation (identification number 0434806) authorized by the Office of the Secretary of State of the Commonwealth of Kentucky to do business in Kentucky and said authorization occurred on or about June 23, 1997. The records maintained by the Office of Secretary of State show that the principal place of business for Accutel is 1060 South Federal Highway, Suite A, Delray Beach, Florida 33444, and show that the registered agent is Stephen A. Schwager, 650 Starks Building, Louisville, Kentucky 40202-2509.

KRS 278.535(1)(a) prescribes statutory procedures for the proper changing of any Kentucky customer's primary telecommunications carrier.

## COUNT I

1. On or about August 9, 1999, Glenna Baker reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Accutel without her authority or permission. Ms. Baker's telephone number is 502/527-9838.

2. By letter dated August 17, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from Ms. Baker. The letter requested that Accutel provide Commission Staff appropriate evidence that Ms. Baker had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count I-A**. KRS 278.535(2) places the burden of proof on Accutel to show that Ms. Baker knowingly authorized the carrier change.

3. On September 9, 1999, Commission Staff mailed Accutel a second notification regarding the complaint lodged by Ms. Baker. A copy of said letter is attached hereto and marked **Appendix Count I-B**.

4. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Ms. Baker in which she properly authorized the carrier change.

## COUNT II

1. On or about July 14, 1999, a representative of Bays Hi Teck Heating and Cooling Inc. ("Bays") reported to Commission Staff by telephone that Bays's long-distance carrier had been changed to Accutel without its authority or permission. Bays's telephone numbers are 606/473-6145 and 800/473-7197.

2. By letter dated July 20, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from Bays. The letter requested that Accutel

provide Commission Staff appropriate evidence that Bays had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count II-A**. KRS 278.535(2) places the burden of proof on Accutel to show that Bays knowingly authorized the carrier change.

3. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Bays, or any authorized agent or representative of Bays, that properly authorized the carrier change.

### COUNT III

1. On or about August 17, 1999, Marsha Caudill reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Accutel without her authority or permission. Ms. Caudill's telephone number is 606/436-0492.

2. By letter dated August 24, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from Ms. Caudill. The letter requested that Accutel provide Commission Staff appropriate evidence that Ms. Caudill had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count III-A**. KRS 278.535(2) places the burden of proof on Accutel to show that Ms. Caudill knowingly authorized the carrier change.

3. On September 27, 1999, Commission Staff mailed Accutel a second notification regarding the complaint lodged by Ms. Caudill. A copy of said letter is attached hereto and marked **Appendix Count III-B**.

4. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Ms. Caudill in which she properly authorized the carrier change.

#### COUNT IV

1. On or about August 18, 1999, Richard Benton, the parson and representative for First United Methodist Church ("First United") reported to Commission Staff by telephone that First United's long-distance carrier had been changed to Accutel without its authority or permission. First United's telephone number is 606/653-3241.

2. By letter dated August 24, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from First United. The letter requested that Accutel provide Commission Staff appropriate evidence that First United had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count IV-A**. KRS 278.535(2) places the burden of proof on Accutel to show that First United knowingly authorized the carrier change.

3. On September 27, 1999, Commission Staff mailed Accutel a second notification regarding the complaint lodged by First United. A copy of said letter is attached hereto and marked **Appendix Count IV-B**.

4. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of First United, or any authorized agent or representative of First United, that properly authorized the carrier change.

## COUNT V

1. On or about July 20, 1999, Glenda Trox, on behalf of Glasgow Flower Shop ("Glasgow Flower"), reported to Commission Staff by telephone that Glasgow Flower's long-distance carrier had been changed from GTE to Accutel without its authority or permission. Glasgow Flower's telephone number is 270/651-3582.

2. By letter dated July 20, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from Glasgow Flower. The letter requested that Accutel provide Commission Staff appropriate evidence that Glasgow Flower had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count V-A**. KRS 278.535(2) places the burden of proof on Accutel to show that Glasgow Flower knowingly authorized the carrier change.

3. On August 9, 1999, Commission Staff mailed Accutel a second notification regarding the complaint lodged by Glasgow Flower. A copy of said letter is attached hereto and marked **Appendix Count V-B**.

4. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Glasgow Flower, or any authorized agent or representative of Glasgow Flower, that properly authorized the carrier change.

## COUNT VI

1. On or about January 27, 1999, Felicia Allen, on behalf of and authorized by Green Hill Memorial Gardens ("Green Hill"), reported to Commission Staff by telephone that Green Hill's long-distance carrier had been changed from AT&T to

Accutel without its authority or permission. Green Hill's telephone number is 502/885-3363.

2. By letter dated May 18, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from Green Hill. The letter requested that Accutel provide Commission Staff appropriate evidence that Green Hill had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count VI-A**. KRS 278.535(2) places the burden of proof on Accutel to show that Green Hill knowingly authorized the carrier change.

3. On June 9, 1999, Commission Staff mailed Accutel a second notification regarding the complaint lodged by Green Hill. A copy of said letter is attached hereto and marked **Appendix Count VI-B**.

4. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Green Hill, or any representative or agent thereof, that properly authorized the carrier change.

#### COUNT VII

1. On or about February 2, 1999, a representative of Manufacturer's Supply of East Kentucky, Inc. ("Manufacturer's Supply") reported to Commission Staff by telephone that Manufacturer's Supply's long-distance carrier had been changed to Accutel without its authority or permission. Manufacturer's Supply's telephone number is 606/439-1811 and its fax number is 606/439-6885.

2. By letter dated May 18, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from Manufacturer's Supply. The letter requested that Accutel provide Commission Staff appropriate evidence that

Manufacturer's Supply had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count VII-A**. KRS 278.535(2) places the burden of proof on Accutel to show that Manufacturer's Supply knowingly authorized the carrier change.

3. On June 9, 1999, Commission Staff mailed Accutel a second notification regarding the complaint lodged by Manufacturer's Supply. A copy of said letter is attached hereto and marked **Appendix Count VII-B**.

4. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Manufacturer's Supply, or any representative or agent thereof, that properly authorized the carrier change.

#### COUNT VIII

1. On or about February 10, 1999, Robert Howard, a representative of Red Lobster Restaurant located in Richmond, Kentucky, reported to Commission Staff by telephone that Red Lobster's long-distance carrier had been changed from Sprint to Accutel without its authority or permission. Red Lobster's telephone number is 606/623-3503.

2. By letter dated February 11, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from Red Lobster. The letter requested that Accutel provide Commission Staff appropriate evidence that Red Lobster had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count VIII-A**. KRS 278.535(2) places the burden of proof on Accutel to show that Red Lobster knowingly authorized the carrier change.

3. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Red Lobster, or any representative or agent thereof, that properly authorized the carrier change.

#### COUNT IX

1. On or about April 14, 1999, Zella Rowe reported to Commission Staff by telephone that her long-distance carrier had been changed to Accutel without her authority or permission. Ms. Rowe's telephone number is 502/527-2487.

2. By letter dated May 28, 1999, Commission Staff notified Accutel of the complaint received by Commission Staff from Ms. Rowe. The letter requested that Accutel provide Commission Staff appropriate evidence that Ms. Rowe had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count IX-A**. KRS 278.535(2) places the burden of proof on Accutel to show that Ms. Rowe knowingly authorized the carrier change.

3. On June 30, 1999, Commission Staff mailed Accutel a second notification regarding the complaint lodged by Ms. Rowe. A copy of said letter is attached hereto and marked **Appendix Count IX-B**.

4. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Ms. Rowe in which she properly authorized the carrier change.

Based on the foregoing allegations and on the results of the investigation by Commission Staff, the Commission, on its own motion, HEREBY ORDERS that:

1. Accutel shall submit to the Commission within 20 days of the date of receipt of this Order a response to the allegations contained in each Count above.



2. Accutel shall appear on July 6, 2000, at 9:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky for the purpose of showing cause why it should not be subject to penalties pursuant to KRS 278.990(1) and KRS 278.535(6) for the alleged violations of law described herein.

3. Any request for an informal conference with the Commission Staff to consider any matter which would expedite the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of receipt of this Order.

Done at Frankfort, Kentucky, this 22<sup>nd</sup> day of March, 2000.

By the Commission

ATTEST:

  
Executive Director