

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EXCEL TELECOMMUNICATIONS, INC.)	
_____)	CASE NO. 2000-136
)	
ALLEGED VIOLATION(S) OF KRS 278.535)	
SWITCHING OF TELECOMMUNICATIONS)	
PROVIDER)	

O R D E R

Excel Telecommunications, Inc. ("Excel") 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. Excel is a foreign corporation (identification number 0405975) 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 September 27, 1995. The records maintained by the Office of Secretary of State show that the principal place of business for Excel is 8750 North Central Expressway, Suite 1900, Dallas, Texas 75231, and show that the registered agent is CT Corporation System, Kentucky Home Life Building, Louisville, Kentucky 40202. As of March 1, 2000, the Office of the Secretary of State of Kentucky had the following listed as officers of Excel: Shelby Shaver, President; Nicholas Mercick, Vice President; Christopher Dance, Secretary; and Paul Fletcher, Treasurer.

KRS 278.535(1)(a) prescribes statutory requirements specifying, among other things, that the customer must provide authorization before his primary telecommunications carrier may be switched.

COUNT I

1. On or about September 23, 1999, Deborah Bowman reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Excel without her authority or permission. Ms. Bowman's telephone number is 502/839-6686. Ms. Bowman resided in Lawrenceburg, Kentucky at the time she filed her complaint.

2. By letter dated September 24, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Bowman. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Bowman 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 Excel to show that Ms. Bowman knowingly authorized the carrier change.

3. By letter dated October 12, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Ms. Bowman's signature. Ms. Bowman reports to Commission Staff that the signature is not hers. A copy of said letter is attached hereto and marked **Appendix Count I-B**.

COUNT II

1. On or about September 13, 1999, Robert Bermon reported to Commission Staff by telephone that his long-distance carrier had been changed to Excel without his

authority or permission. Mr. Bermon's telephone number is 502/695-7482. Mr. Bermon resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated September 24, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Bermon. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Bermon 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 Excel to show that Mr. Bermon knowingly authorized the carrier change.

3. By letter dated October 4, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Bermon's signature. Mr. Bermon reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count II-B**.

COUNT III

1. On or about October 1, 1999, Juli Brady reported to Commission Staff by telephone that her long-distance carrier had been changed to Excel without her authority or permission. Ms. Brady's telephone number is 606/258-9335. Ms. Brady resided in Lexington, Kentucky at the time she filed her complaint.

2. By letter dated October 5, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Brady. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Brady 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 Excel to show that Ms. Brady knowingly authorized the carrier change.

3. By letter dated October 20, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Ms. Brady's signature. Ms. Brady reports to Commission Staff that the signature is not hers. A copy of said letter is attached hereto and marked **Appendix Count III-B**

COUNT IV

1. On or about October 7, 1999, Dudley Brown reported to Commission Staff by telephone that his long-distance carrier had been changed from MCI to Excel without his authority or permission. Mr. Brown's telephone number is 502/695-4475. Mr. Brown resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated October 7, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Brown. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Brown 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 Excel to show that Mr. Brown knowingly authorized the carrier change.

3. On October 29, 1999, Commission Staff mailed Excel a second notification regarding the complaint lodged by Mr. Brown. A copy of said letter is attached hereto and marked **Appendix Count IV-B**.

4. By letter dated October 27, 1999, Excel replied to the Commission's letters and supplied a letter of agency that allegedly contains Mr. Brown's signature. Mr. Brown reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count IV-C**.

COUNT V

1. On or about September 24, 1999, Don Coleman reported to Commission Staff by telephone that his long-distance carrier had been changed from AT&T to Excel without his authority or permission. Mr. Coleman's telephone number is 502/499-0858. Mr. Coleman resided in Louisville, Kentucky at the time he filed his complaint.

2. By letter dated September 28, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Coleman. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Coleman 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 Excel to show that Mr. Coleman knowingly authorized the carrier change.

3. By letter dated October 13, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Coleman's signature. Mr. Coleman reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count V-B**.

COUNT VI

1. On or about October 27, 1999, Barbara Young reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Excel without her authority or permission. Ms. Young's telephone number is 502/839-7988. Ms. Young resided in Lawrenceburg, Kentucky at the time she filed her complaint.

2. By letter dated October 29, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Young. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Young authorized the

carrier change. KRS 278.535(2) places the burden of proof on Excel to show that Ms. Young knowingly authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count VI-A**.

3. By letter dated November 4, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Barry Young's signature. Barry Young is Ms. Young's husband. Ms. Young reports to Commission Staff that the signature is neither hers nor her husband's. A copy of said letter is attached hereto and marked **Appendix Count VI-B**.

COUNT VII

1. On or about September 27, 1999, Kendra Dalton reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Excel without her authority or permission. Ms. Dalton's telephone number is 502/412-0456. Ms. Dalton resided in Louisville, Kentucky at the time she filed her complaint.

2. By letter dated September 28, 1999, Commission staff notified Excel of the complaint received by Commission Staff from Ms. Dalton. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Dalton 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 Excel to show that Ms. Dalton knowingly authorized the carrier change.

3. On or about October 12, 1999, Commission Staff mailed Excel a second notification regarding the complaint lodged by Ms. Dalton. A copy of said letter is attached hereto and marked **Appendix VII-B**.

4. By letter dated October 13, 1999, Excel replied to the Commission's letters and supplied a letter of agency that allegedly contains Ms. Dalton's signature. Ms. Dalton reports to Commission Staff that the signature is not hers. A copy of said letter is attached hereto and marked **Appendix Count VII-C**.

COUNT VIII

1. On or about October 12, 1999, Jim Fries reported to Commission Staff by telephone that his long-distance carrier had been changed from MCI to Excel without his authority or permission. Mr. Fries's telephone number is 502/695-0993. Mr. Fries resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated October 12, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Fries. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Fries 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 Excel to show that Mr. Fries knowingly authorized the carrier change.

3. By letter dated October 27, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Fries's signature. Mr. Fries reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count VIII-B**.

COUNT IX

1. On or about October 13, 1999, Diane Gatewood reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Excel without her authority or permission. Ms. Gatewood's telephone number is

502/227-4219. Ms. Gatewood resided in Frankfort, Kentucky at the time she filed her complaint.

2. By letter dated October 13, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Gatewood. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Gatewood 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 Excel to show that Ms. Gatewood knowingly authorized the carrier change.

3. By letter dated November 1, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains the signature of Ms. Gatewood's husband. Ms. Gatewood reports to Commission Staff that the signature is neither hers nor her husband's. A copy of said letter is attached hereto and marked **Appendix Count IX-B**.

COUNT X

1. On or about September 8, 1999, Gary Ison reported to Commission Staff by telephone that his long-distance carrier had been changed from AT&T to Excel without his authority or permission. Mr. Ison's telephone number is 502/875-5176. Mr. Ison resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated September 9, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Ison. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Ison had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count X-A**.

KRS 278.535(2) places the burden of proof on Excel to show that Mr. Ison knowingly authorized the carrier change.

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

4. By letter dated September 27, 1999, Excel replied to the Commission's letters and supplied a letter of agency that allegedly contains Mr. Ison's signature. Mr. Ison reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count X-C**.

COUNT XI

1. On or about September 23, 1999, Bill Johnson reported to Commission Staff by telephone that his long-distance carrier had been changed from GTE to Excel without his authority or permission. Mr. Johnson's telephone number is 606/277-2674. Mr. Johnson resided in Lexington, Kentucky at the time he filed his complaint.

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

3. On October 12, 1999, Commission Staff mailed Excel a second notification regarding the complaint lodged by Mr. Johnson. A copy of said letter is attached hereto and marked **Appendix Count XI-B**.

4. By letter dated October 12, 1999, Excel replied to the Commission's letters and supplied a letter of agency that allegedly contains Mr. Johnson's signature. Mr. Johnson reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XI-C**.

COUNT XII

1. On or about September 7, 1999, Michael Jull reported to Commission Staff by telephone that his long-distance carrier had been changed to Excel without his authority or permission. Mr. Jull's telephone number is 502/875-5488. Mr. Jull resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated September 8, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Jull. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Jull had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XII-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Jull knowingly authorized the carrier change.

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

4. By letter dated September 27, 1999, Excel replied to the Commission's letters and supplied a letter of agency that allegedly contains Mr. Jull's signature. Mr. Jull reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XII-C**.

COUNT XIII

1. On or about October 22, 1999, Dennis Junot reported to Commission Staff by telephone that his long-distance carrier had been changed to Excel without his authority or permission. Mr. Junot's telephone number is 502/223-1273. Mr. Junot resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated October 27, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Junot. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Junot had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XIII-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Junot knowingly authorized the carrier change.

3. By letter dated November 1, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Junot's signature. Mr. Junot reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XIII-B**.

COUNT XIV

1. On or about September 9, 1999, Karen Lefler reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Excel without her authority or permission. Ms. Lefler's telephone number is 502/223-2152. Ms. Lefler resided in Frankfort, Kentucky at the time she filed her complaint.

2. By letter dated September 24, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Lefler. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Lefler had authorized the

carrier change. A copy of said letter is attached hereto and marked **Appendix Count XIV-A**. KRS 278.535(2) places the burden of proof on Excel to show that Ms. Lefler knowingly authorized the carrier change.

3. By letter dated September 27, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Scott Lefler's signature. Scott Lefler is Ms. Lefler's husband. Ms. Lefler reports to Commission Staff that the signature is neither hers nor her husband's. A copy of said letter is attached hereto and marked **Appendix Count XIV-B**.

COUNT XV

1. On or about October 5, 1999, William McAlister reported to Commission Staff by telephone that his long-distance carrier had been changed from AT&T to Excel without his authority or permission. Mr. McAlister's telephone number is 502/228-3995. Mr. McAlister resided in Goshen, Oldham County, Kentucky at the time he filed his complaint.

2. By letter dated October 13, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. McAlister. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. McAlister had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XV-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. McAlister knowingly authorized the carrier change.

3. By letter dated October 22, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. McAlister's signature. Mr.

McAlister reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XV-B**.

COUNT XVI

1. On or about October 19, 2000, Chris Marshall reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Excel without her authority or permission. Ms. Marshall's telephone number is 502/226-3401. Ms. Marshall resided in Frankfort, Kentucky at the time she filed her complaint.

2. By letter dated October 22, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Marshall. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Marshall had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XVI-A**. KRS 278.535(2) places the burden of proof on Excel to show that Ms. Marshall knowingly authorized the carrier change.

3. By letter dated November 4, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Ms. Marshall's signature. Ms. Marshall reports to Commission Staff that the signature is not hers. A copy of said letter is attached hereto and marked **Appendix Count XVI-B**.

COUNT XVII

1. On or about September 7, 1999, Robert Overberg reported to Commission Staff by telephone that his long-distance carrier had been changed from MCI to Excel without his authority or permission. Mr. Overberg's telephone number is 502/695-5546. Mr. Overberg resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated September 8, 1999, Commission Staff notified Excel was of the complaint received by Commission Staff from Mr. Overberg. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Overberg had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XVII-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Overberg knowingly authorized the carrier change.

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

4. By letter dated September 27, 1999, Excel replied to the Commission's letters and supplied a letter of agency that allegedly contains Mr. Overberg's signature. Mr. Overberg reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XVII-C**.

COUNT XVIII

1. On or about September 7, 1999, James Nalley reported to Commission Staff by telephone that his long-distance carrier had been changed to Excel without his authority or permission. Mr. Nalley's telephone number is 502/695-7225. Mr. Nalley resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated September 8, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Nalley. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Nalley had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix**

Count XVIII-A. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Nalley knowingly authorized the carrier change.

3. By letter dated September 20, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Nalley's signature. Mr. Nalley reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XVIII-B.**

COUNT XIX

1. On or about October 14, 1999, Richard Poe reported to Commission Staff by telephone that his long-distance carrier had been changed from AT&T to Excel without his authority or permission. Mr. Poe's telephone number is 502/227-4352. Mr. Poe resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated October 14, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Poe. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Poe had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XIX-A.** KRS 278.535(2) places the burden of proof on Excel to show that Mr. Poe knowingly authorized the carrier change.

3. By letter dated November 1, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Poe's signature. Mr. Poe reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XIX-B.**

COUNT XX

1. On or about October 7, 1999, Harry L. Robinson reported to Commission Staff by telephone that his long-distance carrier had been changed to Excel without his authority or permission. Mr. Robinson's telephone number is 502/839-9416. Mr. Robinson resided in Lawrenceburg, Kentucky at the time he filed his complaint.

2. By letter dated October 7, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Robinson. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Robinson had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XX-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Robinson knowingly authorized the carrier change.

3. By letter dated October 27, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Robinson's signature. Mr. Robinson reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XX-B**.

COUNT XXI

1. On or about September 14, 1999, Bob Rodgers reported to Commission Staff by telephone that his long-distance carrier had been changed from AT&T to Excel without his authority or permission. Mr. Rodgers' telephone number is 502/227-9979. Mr. Rodgers resided in Frankfort, Kentucky at the time he filed his complaint.

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

3. By letter dated September 30, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Rodgers' signature. Mr. Rodgers reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XXI-B**.

COUNT XXII

1. On or about October 13, 1999, Diane Rogers reported to Commission Staff by telephone that her long-distance carrier had been changed from Unidial to Excel without her authority or permission. Ms. Rogers' telephone number is 502/875-7322. Ms. Rogers resided in Frankfort, Kentucky at the time she filed her complaint.

2. By letter dated October 22, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Rogers. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Rogers had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XXII-A**. KRS 278.535(2) places the burden of proof on Excel to show that Ms. Rogers knowingly authorized the carrier change.

3. By letter dated November 9, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Harry Rogers' signature. Harry Rogers is Ms. Rogers' husband. Ms. Rogers contends that the signature is neither hers nor her husband's. A copy of said letter is attached hereto and marked **Appendix Count XXII-B.**

COUNT XXIII

1. On or about August 31, 1999, Helen Turner reported to Commission Staff by telephone that her long-distance carrier had been changed from AT&T to Excel without her authority or permission. Ms. Turner's telephone number is 502/839-4855. Ms. Turner resided in Lawrenceburg, Kentucky at the time she filed her complaint.

2. By letter dated September 3, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Turner. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Turner had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XXIII-A.** KRS 278.535(2) places the burden of proof on Excel to show that Ms. Turner knowingly authorized the carrier change.

3. By letter dated September 21, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains the signature of Robert Turner, Ms. Turner's husband. Ms. Turner reports to Commission Staff that the signature is neither hers nor her husband's, and that Mr. Turner died February 18, 1989. The letter of authorization is dated August 14, 1999. A copy of said letter is attached hereto and marked **Appendix Count XXIII-B.**

COUNT XXIV

1. On or about September 27, 1999, Orvil Skeen reported to Commission Staff by telephone that his long-distance carrier had been changed from TTI to Excel without his authority or permission. Mr. Skeen's telephone number is 502/223-2890. Mr. Skeen resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated September 27, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Skeen. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Skeen had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XXIV-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Skeen knowingly authorized the carrier change.

3. On October 12, 1999, Commission Staff mailed Excel a second notification regarding the complaint lodged by Mr. Skeen. A copy of said letter is attached hereto and marked **Appendix Count XXIV-B**.

4. By letter dated October 13, 1999, Excel replied to the Commission's letters and supplied a letter of agency that allegedly contains Mr. Skeen's signature. Mr. Skeen reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XXIV-C**.

COUNT XXV

1. On or about September 9, 1999, Larry Thomas reported to Commission Staff by telephone that his long-distance carrier had been changed from AT&T to Excel without his authority or permission. Mr. Thomas's telephone number is 502/875-0044. Mr. Thomas resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated September 9, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Thomas. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Thomas had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XXV-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Thomas knowingly authorized the carrier change.

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

4. By letter dated September 27, 1999, Excel replied to the Commission's letters and supplied a letter of agency that allegedly contains Mr. Thomas's signature. Mr. Thomas reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XXV-C**.

COUNT XXVI

1. On or about September 23, 1999, Shane Turner reported to Commission Staff by telephone that his long-distance carrier had been changed to Excel without his authority or permission. Mr. Turner's telephone number is 606/263-8271. Mr. Turner resided in Lexington, Kentucky at the time he filed his complaint.

2. By letter dated September 24, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Turner. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Turner had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix**

Count XXVI-A. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Turner knowingly authorized the carrier change.

3. On October 12, 1999, Commission Staff mailed Excel a second notification regarding the complaint lodged by Mr. Turner. A copy of said letter is attached hereto and marked **Appendix Count XXVI-B.**

4. By letter dated October 12, 1999, Excel replied to the Commission's letters and a written letter of agency that allegedly contains Mr. Turner's signature. Mr. Turner reports to the Commission that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XXVI-C.**

COUNT XXVII

1. On or about June 15, 1999, Veronica Willis reported to Commission Staff by telephone that her long-distance carrier had been changed to Excel without her authority or permission. Ms. Willis's telephone number is 270/842-2151. Ms. Willis resided in Bowling Green, Kentucky at the time she filed her complaint.

2. By letter dated June 22, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Ms. Willis. The letter requested that Excel provide Commission Staff appropriate evidence that Ms. Willis had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XXVII-A.** KRS 278.535(2) places the burden of proof on Excel to show that Ms. Willis knowingly authorized the carrier change.

3. On July 12, 1999, Commission Staff mailed Excel a second notification regarding the complaint lodged by Ms. Willis. A copy of said letter is attached hereto and marked **Appendix Count XXVII-B.**

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

COUNT XXVIII

1. On or about July 8, 1999, Dexter Spurlock reported to Commission Staff by telephone that his long-distance carrier had been changed from MCI to Excel without his authority or permission. Mr. Spurlock's telephone number is 606/478-4906. Mr. Spurlock resided in Harold, Floyd County, Kentucky at the time the he filed the complaint.

2. By letter dated July 13, 1999, Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Spurlock. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Spurlock had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XVIII-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Spurlock knowingly authorized the carrier change.

3. On August 4, 1999, Commission Staff mailed Excel a second notification regarding the complaint lodged by Mr. Spurlock. A copy of said letter is attached hereto and marked **Appendix Count XXVIII-B**.

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

COUNT XXIX

1. On or about May 20, 1999, Cordelia Moran reported to Commission Staff by telephone that her long-distance carrier had been changed from MCI to Excel without her authority or permission. Ms. Moran's telephone number is 606/564-8065. At the time Ms. Moran filed her complaint, she resided in Sardis, Mason County, Kentucky.

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

3. On June 7, 1999, Commission Staff mailed Excel a second notification regarding the complaint lodged by Ms. Moran. A copy of said letter is attached hereto and marked **Appendix Count XXIX-B**.

4. By letter dated June 7, 1999, Excel replied to the Commission's letters stating that Excel had an electronic recording of Ms. Moran's authorization for the carrier change. Excel also provided Commission Staff with a letter of agency that allegedly contains Ms. Moran's signature. Ms. Moran reports to Commission Staff that the signature is not hers. A copy of said letter is attached hereto and marked **Appendix Count XXIX-C**.

5. Accompanying the June 7, 1999 letter from Excel was a recording of Ms. Moran's alleged authorization of the carrier change. Ms. Moran reports to Commission Staff that the voice is not hers and the birth date given as verification is not hers.

COUNT XXX

1. On or about July 26, 1999, Rawland Wright reported to Commission Staff by telephone that his long-distance carrier had been changed from Compuserve to Excel without his authority or permission. Mr. Wright's telephone number is 606/886-0727. Mr. Wright resided in Prestonsburg, Kentucky at the time he filed his complaint.

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

3. By letter dated August 18, 1999, Excel replied to the Commission's letter and explained how the carrier change allegedly occurred. A copy of said letter is attached hereto and marked **Appendix Count XXX-B**.

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

COUNT XXXI

1. On or about October 5, 1999, James Conway reported to Commission Staff in person that his long-distance carrier had been changed from AT&T to Excel without his authority or permission. Mr. Conway's telephone number is 502/695-8124. Mr. Conway resided in Frankfort, Kentucky at the time he filed his complaint.

2. By letter dated October 13, 1999. Commission Staff notified Excel of the complaint received by Commission Staff from Mr. Conway. The letter requested that Excel provide Commission Staff appropriate evidence that Mr. Conway had authorized the carrier change. A copy of said letter is attached hereto and marked **Appendix Count XXXI-A**. KRS 278.535(2) places the burden of proof on Excel to show that Mr. Conway knowingly authorized the carrier change.

3. By letter dated October 27, 1999, Excel replied to the Commission's letter and supplied a letter of agency that allegedly contains Mr. Conway's signature. Mr. Conway reports to Commission Staff that the signature is not his. A copy of said letter is attached hereto and marked **Appendix Count XXXI-B**.

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

1. Excel 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. Excel shall appear on July 25, 2000, at 10:00 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commissioner'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 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 24th day of March, 2000.

By the Commission

ATTEST:



Executive Director

Appendix/Attachments to this Commission Decision are available upon request.