

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADVANTAGE TELECOMMUNICATIONS CORP.)	
)	
_____)	CASE NO. 2000-215
)	
ALLEGED VIOLATION OF KRS 278.535)	

O R D E R

This is a case in which several consumers¹ allege that Advantage Telecommunications Corporation (“Advantage Telecom”) switched their long-distance providers without authorization. The Commission entered an Order on August 25, 2000 directing Advantage Telecom to show cause why it should not be found in violation of KRS 278.535.

On September 21, 2000, Advantage Telecom responded to the Order. It alleged that each individual who authorized the change of long-distance provider falsely informed the telemarketer that he or she had the authority to change long-distance service of the customer in question. Advantage Telecom provided tapes that, it alleges, demonstrate authorization for the switch for each customer in question. It also provided copies of checks wherein Advantage Telecom refunded to each customer all payments made by the customers to Advantage Telecom. Advantage Telecom also requested an informal conference with Commission Staff to discuss this matter.

¹ The consumers are Carla Easterling; Gail Jackson; Ray Hamilton; and Pickerill Motor Company, Inc.

On October 6, 2000, an informal conference was held via telephone. At this conference, Commission Staff stated that the tapes Advantage Telecom provided for each customer did not comply with KRS 278.535 or 807 KAR 5:062 because the tapes are inaudible. Advantage Telecom stated that it has initiated a double verification policy. The policy requires Advantage Telecom itself to contact each customer who authorizes a switch with an independent third party. If Advantage Telecom is not satisfied that the customer wants to change carriers, it does not switch that customer's long-distance service. Advantage Telecom also stated that it now has a zero tolerance policy for telemarketer misconduct and that it would be willing to consider any other policies suggested by the Commission to avoid slamming complaints. (See Informal Conference Memorandum, October 10, 2000.)

Subsequently, by letter dated December 5, 2000, Advantage Telecom agreed to a fine of \$2,000.00 for each count to settle this case. More importantly, however, Advantage Telecom has taken considerable steps toward limiting the pervasive problem of slamming through its new policies. Advantage Telecom has been very forthcoming and has worked well with Commission Staff to resolve this matter. Accordingly, the offer proposed by Advantage Telecom is a reasonable and expeditious way to settle this matter and should therefore be accepted.

Based upon the foregoing, and the Commission being otherwise sufficiently advised, IT IS HEREBY ORDERED that:

1. Advantage Telecommunications Corp. shall be liable for a fine of \$8,000.00 for the four (4) counts in the show cause Order (\$2,000.00 per count). Within thirty (30) days of the date of this Order, Advantage Telecommunications Corp. shall

tender a payment of \$4,000.00 (\$1,000.00 per count) toward this fine to the Commission. The check shall be made payable to the Kentucky State Treasurer and shall be sent to the Office of the General Counsel, Public Service Commission, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602.

2. The Commission, however, will suspend \$1,000.00 for each of these counts. These monies shall remain suspended unless the Commission issues a show cause Order alleging that Advantage Telecommunications Corp. has violated KRS 278.535 or 807 KAR 5:062 within one (1) year of this Order, and after an evidentiary hearing, finds that Advantage Telecommunications Corp. violated KRS 278.535 or 807 KAR 5:062.

3. Should the Commission make such a finding as set forth in paragraph 2 above, Advantage shall pay immediately the \$1,000.00 probated from each count in paragraph 2. It shall remit this sum by check made payable to the Kentucky State Treasurer and send that check to the Executive Director with a copy of this Order attached. Should Advantage Telecommunications Corp. not comply with this Order, it shall be subject to further Commission action and subject to a lawsuit in the Franklin Circuit Court as set forth in KRS 278.990.

4. The hearing of this case set for December 19, 2000 is cancelled.

Done at Frankfort, Kentucky, this 20th day of December, 2000.

By the Commission

ATTEST:


Executive Director