

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

EXPRESS TELEPHONE SERVICES, INC. )  
\_\_\_\_\_ ) CASE NO. 2004-00433  
ALLEGED VIOLATION(S) OF KRS 278.535 )

O R D E R

Express Telephone Services, Inc. ("Express Telephone") 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. Express Telephone is a foreign corporation (identification number 0568368) and was authorized by the Office of the Secretary of State of the Commonwealth of Kentucky to do business in Kentucky. The records maintained by the Office of the Secretary of State show that Express Telephone's principal place of business is 6331 Grapevine Highway, Suite 250, North Richland Hills, Texas 76180, and show that the registered agent is Kentucky Lenders Assistance, 828 Lane Allen Road, Suite 219, Lexington, Kentucky 40504.

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 September 20, 2004, Lynn Pierce reported to Commission Staff by telephone that her telephone service had been changed to Express Telephone

with permission, but was not provided the service offered to induce the change in providers. Ms. Pierce's telephone number is XXX-XXX-XXXX.

2. After investigation, Commission Staff has been unable to obtain or secure any written authorization or electronically recorded authorization of Ms. Pierce by which she properly authorized the specific details of the carrier change.

#### COUNT II

1. On or about October 12, 2004, Yettie Nesselrotte reported to Commission Staff by telephone that her telephone service had been changed to Express Telephone without her authority or permission. Ms. Nesselrotte's telephone number is XXX-XXX-XXXX.

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

#### COUNT III

1. On or about October 22, 2004, Latoya Mansfield reported to Commission Staff by telephone that her telephone service had been changed to Express Telephone without her authority or permission. Ms. Mansfield's telephone number is XXX-XXX-XXXX.

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

IT IS THEREFORE ORDERED that:

1. Within 30 days of the date of receipt of this Order, Express Telephone shall submit to the Commission a response to the allegations stated above. The response shall be accompanied by the following:

a. A copy (front and back) of all canceled checks issued to the subscribers.

b. All documentation supporting any claim by Express Telephone that the carrier change was authorized by the customer including, but not limited to, letters of authority or electronically recorded Third Party Verification. If Express Telephone is unable to supply such documentation, it shall supply a notarized statement of the individual or individuals responsible for obtaining such documentation explaining why such documentation is unavailable.

c. Express Telephone shall also supply an alphabetized list of all telephone subscribers in Kentucky contacted by Express Telephone for the purposes of soliciting telephone service and the sources from which it gained the names of those persons.

d. A list of all telemarketers representing Express Telephone whose sales of telephone service have been challenged by Kentucky residents as stated in this Order.

e. All evidence, documents, and the names of witnesses that Express Telephone plans to call and/or introduce at hearing, together with a brief description of the issues regarding which each witness will testify.

2. Express Telephone shall appear on January 11, 2005 at 9:00 a.m., Eastern Standard 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 described herein.

3. The official record of the proceeding shall be by video only, unless otherwise requested by a party to this proceeding within 10 days of the date of this Order.

4. 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 10 days from the date of this Order.

Done at Frankfort, Kentucky, this 8<sup>th</sup> day of December, 2004.

By the Commission

Commissioner W. Gregory Coker did not participate in the deliberations or decision concerning this case.

ATTEST:



Executive Director

Case No. 2004-00433