

OFFICIAL FILE
ILLINOIS COMMERCE COMMISSION

ORIGINAL

CONSUMER SERVICES DIVISION STAFF REPORT

ILLINOIS
COMMERCE COMMISSION
MAR 3 4 23 PM '00

January 10, 2000

SUBJECT: Staff recommends that the Commission initiate a proceeding to determine whether Pre-Paid Local Access Phone Service Co. continues to possess the necessary financial and managerial resources and abilities to offer the resale of telecommunications services and to provide local exchange telecommunications service.

SUMMARY

Pre-Paid Local Access Phone Service Co. (Pre-Paid) is a provider of local exchange service certificated pursuant to Sections 13404 (resale of either exchange or interexchange) and 13-405 (facilities-based exchange) of the Public Utilities Act (the Act). On November 18, 1999, Ameritech terminated service to Pre-Paid for non-payment. As a result, approximately 650 customers in the Chicago area, most of whom were residential customers, were left without dial tone service. Pre-Paid did not provide prior notice to end user customers or the Commission. The company typically markets service to high credit risks, advertising local telephone service with no credit check, no identification required, and no deposits.

On November 24, 1999, the Office of the Attorney General filed suit in the Chancery Division of the Circuit Court of Cook County against the company and its President, Mr. Jodi Williams for violations of the Consumer Fraud and Deceptive Practices Act [815 ILCS 505] (*People of the State of Illinois v. Pre-Paid Local Access Phone Service Company, Inc., and Jodi Williams, individually and as President of Pre-Paid Local Access Phone Service Company, Inc.*, 99 CH 17017). Further, on November 24, 1999, the Court issued a temporary restraining order and an order freezing the assets of the company (See Attachment 1). In obtaining the temporary restraining order, the Attorney General demonstrated to the Courts satisfaction that the State is "reasonably likely" to succeed on the merits of the action. Essentially, this is a finding by the Court that the Attorney General has a good chance of prevailing when all of the evidence in the case has been presented.

Jodi Williams has filed several bankruptcy petitions in 1999, both personally, and doing business as Pre-Paid Local Access. All have been dismissed, except for one personal bankruptcy petition currently pending, which has no effect on actions against the company.

It is the recommendation of staff that an investigation proceeding be initiated leading to an order for revocation of Pre-Paid's certification to provide telecommunications.

BACKGROUND

On January 13, 1998, Pre-Paid filed an application for a certificate of service authority pursuant to Section 13-404 of the PUA to operate as a reseller of local telecommunications service within the State of Illinois. During the hearings in Docket 98-0021, Pre-Paid indicated that at some point in the future it intended to use Nortel central office equipment to provide some of its services and that the central office equipment had already been purchased. Accordingly, on April 15, 1998, Pre-Paid orally amended its application to include a request for authority under Section 13-405 of the PUA. The Hearing Examiner granted Pre-Paid's oral motion to amend its application. During the certification process, Pre-Paid indicated that it intended to provide resold basic dial tone service, including local calling to residential customers. In addition it would offer call waiting, call forwarding, three-way calling, speed dial, automatic callback, Caller ID, and non-published number service.

On May 20, 1998, the Commission granted certificates of service authority pursuant to Sections 13-404 and 13-405 of the PUA.

Pre-Paid purchased service from Ameritech for resale to its customers, but was consistently delinquent in payment for such service. The company defaulted on numerous payment arrangements it made with Ameritech. The bill which was tendered to Pre-Paid on November 4th was in excess of \$56,000 with an unpaid balance of nearly \$411,000 (going back to April). Finally, on November 18, 1999, after Pre-Paid's second bankruptcy petition was dismissed, Ameritech disconnected service. Approximately 650 end user customers were affected, most of them were residential customers in the Chicago area.

RECOMMENDATION

Staff is concerned that Pre-Paid has not exhibited the requisite "managerial and financial resources and abilities" for retaining certification as required in Sections 13-404 and 13-405 of the Act.

The Staff recommends that a citation proceeding be initiated to determine whether **Pre-Paid Local Access Phone Service Co.** has the necessary managerial and financial resources and abilities to offer telecommunications services under Sections **13-404** and **13-405** of the Act, and whether the certificates of service authority previously granted to Pre-Paid Local Access Phone Service Co. should be revoked.

Prepared by



Joan Howard
Consumer Services Division

Approved by



Debi Barr-Holquist
Manager
Consumer Services Division

4. Through its complaint and motion for Temporary **Restraining Order**, **plaintiff has** shown a fair probability of success at the trial on the merits of this **action**, and is likely that the Defendant has violated the Consumer Fraud Act. and that the **Court** should preserve **the status quo** pending a hearing on plaintiff's Motion for Preliminary Injunction and Order **Freezing Assets**.

5. No bond is required of the plaintiff, a **governmental** agency, **pursuant** to **section 11-103** of the Code of Civil Procedures (735 ILCS 5/11-103 (**West** 1998)).

6. This temporary restraining order is being issued **pursuant** to **section 7 of the Consumer** Fraud and Deceptive Business Practices Act (815 ILCS 505/7 (**West** 1998))

IT IS HEREBY ORDERED AND ADJUDGED:

A. That the Defendants are temporarily restrained **from** providing resold **basic dialtone** telephone service, including local calling and long distance calling to residential customers:

B. That the Defendants are temporarily restrained from advertising resold basic **dialtone** service, including local calling and long distance calling to residential customers;

C. That the Defendants are temporarily restrained from depleting, **transferring**, modifying, dissipating, or otherwise disposing any assets of any kind and wherever situated, including but not limited to, any accounts relative to telephone service activities:

D. Any such other relief as the court deems just and equitable.

E. That the matter is set for hearing on a preliminary injunction on 3RD OF DECEMBER 11:00AM

DATE 11/24/99 at 030A. M.

ENTERED BY: _____

FILED COURT CLERK J. J. SKI
NOV 24 1999
GREEN - 129

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STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce commission
On Its Own Motion

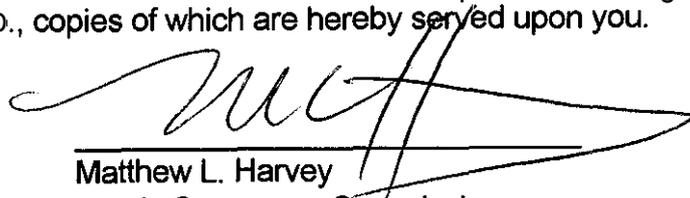
: 00-0073

-vs-

Pre-Paid Local Access Service Co.

NOTICE OF FILING

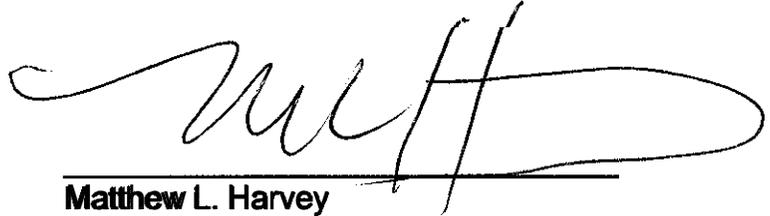
YOU ARE HEREBY NOTIFIED that I have, on this 2nd day of March, 2000, forwarded to the Chief Clerk of the Illinois Commerce Commission, for filing in the above-captioned docket, the Staff of the Illinois Commerce Commission's Report Concerning Pre-Paid Local Access Phone Service Co., copies of which are hereby served upon you.



Matthew L. Harvey
Illinois Commerce Commission
Office of General Counsel
160 North LaSalle Street
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Chicago, Illinois 60601
(312) 793-2877

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing Notice, together with the documents referred to therein, were served upon the parties on the attached Service List, by first-class mail, proper postage prepaid Chicago, Illinois, or by facsimile this 2nd day of March, 2000.

A handwritten signature in black ink, appearing to read 'M. Harvey', is written over a solid horizontal line. The signature is fluid and cursive, with a large loop at the end.

Matthew L. Harvey

SERVICE LIST
Docket # **00-0073-**
Pre-PaidMLH

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