

DIRECT TESTIMONY  
OF  
CINDY JACKSON

CONSUMER SERVICES DIVISION  
ILLINOIS COMMERCE COMMISSION

October 18, 2001

**Q. Please state your name and business address.**

A. My name is Cindy Jackson, and my business address is 527 East Capitol Avenue, Springfield, Illinois.

**Q. What is your occupation?**

A. I am employed in the Consumer Services Division of the Illinois Commerce Commission ("Commission").

**Q. What are your present responsibilities in the Consumer Services Division?**

A. I am the telecommunications witness for the Consumer Services Division, representing the interests of Illinois consumers. I have testified on behalf of consumer interests in the SBC/Ameritech merger, Bell/Atlantic merger, Global Crossings/Frontier merger, Gallatin River purchase of Central Telephone Company of Illinois ("Centel"), and several other dockets where independent telephone companies were purchased. I have participated in over 250 competitive local certification dockets, which includes reviewing applications and testimony from companies requesting certification to provide local exchange telephone service in Illinois. Specifically, I participate in the hearing process to ensure the applicant's compliance with Illinois statutes and Commission rules and regulations. I participated in over 60 dockets that established Eligible Telecommunications Carriers status for local exchange companies.

I was also appointed Staff Liaison by the Executive Director under Section 755.400 of 83 Illinois Administrative Code Part 755 on August 1, 1993 to the Illinois

Telecommunications Access Program ("ITAP"). In that capacity, I oversee activities of the ITAP to ensure that they meet all requirements for the Text Telephone ("TT") distribution and Telecommunications Relay Service ("TRS") programs as required in Section 13-703 of the Public Utilities Act ("PUA"). In addition, I was appointed Staff Liaison by the Executive Director under Section 757.300 of 83 Illinois Administrative Code Part 757 on February 13, 1996 to the Universal Telephone Assistance Program ("UTAP"). As Staff Liaison, I oversee the activities of the UTAP to ensure that they meet all requirements of the Lifeline Program, Link Up Program and the Universal Telephone Service Assistance Program ("UTSAP") as required in Section 13-301 and 13-301.1 of the PUA.

**Q. Please describe your occupational experience.**

A. I began my employment with the Commission in September 1974, and I have worked in various Divisions within the Commission, including the Consumer Services Division. Prior to my position as Staff Liaison, I was the 9-1-1 Program Assistant. Some of my duties included: reviewing 9-1-1 applications to ensure that the Commission's rules and the statute were adhered to, making presentations, and reviewing filings.

**Q. Have you testified before the Commission in other dockets?**

A. Yes. I have provided testimony in I.C.C. Docket 99-0442 and 99-0443 (ITAC relay proposal and contract); Docket No. 98-0555 (SBC/Ameritech merger); Docket No. 98-0866 (GTE/Bell Atlantic merger); Docket No. 99-0237 (Global Crossing/Frontier

merger) I.C.C. Docket 98-0321 (Gallatin River purchase of Centel); Docket No. 96-0503 (GTE wholesale); Docket No. 99-0544 (ATS Services, Inc., CLEC certification); and several other telecommunications- related cases.

**Q. Do you have experience in the certification of telecommunication companies in Illinois?**

A. Yes. I have reviewed applications/petitions and testimony and participated in over 275 certification dockets over the past 3 years. The review process consists of determining whether or not each applicant possesses the necessary managerial, financial, and technical abilities to provide telecommunications service in Illinois. My emphasis in this process is more focused on the managerial qualifications of the company, which includes the company's knowledge of, and ability to comply with Illinois Public Utilities Act, Consumer Fraud and Deceptive Businesses Practices Act, and Illinois Administrative Codes.

**Q. What is the purpose of your testimony?**

A. The purpose of my testimony is provide a recommendation to the Commission regarding the application filed by FreedomStarr Communications, Inc. d/b/a Planet Earth Communications; d/b/a iPhonebill.com ("FreedomStarr" or "the Company" or "the Applicant") for certification as a telecommunications carrier under Section 13-404 of the PUA. My testimony will discuss the Applicant providing service in Illinois prior to receiving certification. I also will discuss the Applicant's different operating names. Next, I will discuss Illinois slamming and

cramming requirements as they relate to the Applicants solicitation of customer via the internet. Finally, I will discuss the Applicant's multi-level marketing plans and the provisioning of telecommunications service in Illinois.

**Q. What incident first brought your attention to FreedomStarr.**

A. Staff regularly receives a compilation of articles clipped from newspapers, magazines, internet, etc. relating public utilities news and related items of interest. In reading an article in The Southern Illinoisian dated January 16, 2000, the reporter, Richard Goldstein, described his recent experience in signing up with a competitive company for his long distance service (Attachment to Staff Ex. 2.0 (hereinafter "Att."), pp. 1-2). Staff found this article intriguing, and recognized the name of the company as a recently filed docket to receive authority to provide telecommunications service in Illinois.

**Q. When Mr. Goldstein signed up for telecommunications service from the Applicant, did the Company have authority to provide telecommunications service in Illinois from the Commission?**

A. No. The article in the Southern Illinoisian was published on January 16, 2000, and FreedomStarr filed for certification from the Commission on December 22, 1999. FreedomStarr had not received certification at the time the article was published.

**Q. Is Staff cognizant of when the Applicant began providing telecommunications service in Illinois?**

A. Yes. In response to a data request, the Applicant stated that it had been providing interstate service in Illinois since 1997 in the 618 area code. Additionally, the Applicant stated that it has provided incidental state to state long distance in the past. (Staff Data Request JRM 2.04, Att. p.3 and CJ2.07, Att. p.4.)

**Q. Did the Applicant provide Staff information concerning the revenue collected in Illinois from 1997, 1998, and 1999?**

A. Yes. The Applicant stated the following gross revenues: 1997 - \$102.22; 1998 - \$237.43; and 1999 \$316.74. (Staff Data Request JRM 2.04, Att. p.3.) However, Staff questions the accuracy of these dollars, since the Applicant has stated that it has over 500,000 (as of December 1999) resellers, representatives and customers and that Planet Earth Commissions plans on being the "Internet Marketing Machine" for new services and products into the next century and looks forward to reaching its goal of 2,000,000 users by January 1, 2001. (PEC - About Us, Att. pp. 5-7.)

**Q. Did the Applicant address whether the Company was currently providing intrastate service in Illinois?**

A. The Applicant stated that it is not providing intrastate long distance services at this time. (Staff Data Request CJ2.07, Att. p. 4; and Tr. p. 38.)

**Q. Does the Applicant's web page offer rates for intrastate calling in Illinois?**

A. Yes. The web address: [www.iphonebill.com/allrates.pl](http://www.iphonebill.com/allrates.pl) lists the per minute rates for various area codes and prefixed in Illinois. Additionally, this web page erroneously lists the 618 area code which is located in southern Illinois as being in Missouri. (Att. pp. 8-22.)

**Q. Does Staff have knowledge of the Applicant providing intrastate long distance service in Illinois without a certificate?**

A. Yes. Staff contacted, Mr. Goldstein and asked if he would provide Staff with a copy of his bill. A review of Mr. Goldstein's call detail for January, February, and March, 2000, shows that the Applicant is offering both intrastate and interstate service in Illinois. (Staff Cross Exhibit 2.)

**Q. Can you specifically identify calls on Mr. Goldstein's bill for January, February, and March, 2000, that are intrastate calls? (Staff Cross Exhibit 2.)**

A. Yes. The originating telephone number was in the 618 area code and 529 prefix, which is southern Illinois. Calls were placed from southern Illinois to various communities within Illinois, e.g., Belleville, Mt. Vernon, Chicago, East St. Louis, and Collinsville.

**Q. Can you specifically identify calls on Mr. Goldstein's bill for January, February, and March, 2000, that are interstate calls? (Staff Cross Exhibit 2.)**

A. Yes. Again the originating calls were placed from southern Illinois to various communities within and outside of the United States, e.g., Columbia, Missouri; Los Angeles, California; Seattle, Washington; New York, New York; Atlanta Georgia; United Kingdom; and Germany.

**Q. Please briefly describe the different operating names that the Applicant is using to conduct business.**

A. The Applicant has filed an application to receive certification in Illinois to resell telecommunications service under the names of FreedomStarr Communications, Inc. d/b/a Planet Earth Communications; d/b/a iPhonebill.com. The Applicant explained that the reason for three different names is in relation to the marketing aspects of the company. (Tr. p. 26.) The company felt that three different marketing segments would present a more clear picture of the company structure than trying to explain three different products under the same name. (*Id.*) The Applicant stated during cross examination that FreedomStarr Communications offers interexchange long distance service (Tr. p. 24.); iPhoneBill.com offers internet service (Tr. p. 26.); and Planet Earth Communications is a global marketing name (*Id.*) The Applicant went on to state that it was the company's intention to attract people that were interested in marketing the services as a reseller program.

**Q. Does the Applicant offer any additional products or services under any other name?**

A. Yes. Staff has found other operating names for the Applicant, such as, PECLD.com, get-a-name, get-a-host.com, and Trafficboost. (Tr. p. 30.) Staff understands that two additional programs are under development, PECLink.net and Checks2000.com. (*Id.*) The Applicant testified that PECLD.com is the only service that is related to intrastate and interstate telecommunications service. The Applicant did not explain the additional programs.

**Q. The Applicant testified that iPhoneBill.com is an internet service provider. Does Staff have any evidence that suggests that iPhoneBill.com offers other services?**

A. Yes. The iPhoneBill.com Terms of Service states, "I hereby authorize iPhoneBill.com (or its designated representative) to act as my agent in all matters relating to the primary interexchange carrier changes for the telephone numbers listed above.....I understand that by signing this letter of agency, iPhoneBill.com shall become my long distance telephone company and that I will no longer be served by my long distance carrier..." (Att. pp.23-24.) The information found in the Applicant's Terms of Service is not indicative of a internet service provider.

**Q. Does Staff have any additional concerns after reviewing call detail found on Mr. Goldstein's bill? (Staff Cross Exhibit No. 2.)**

A. Yes. The telephone bill is in the name of Cognigen, not FreedomStarr or Planet Earth. Additionally, the bill referenced another presumed company name of “get-a-name”.

**Q. Has the Applicant received authority to transact business in Illinois from the Illinois Secretary of State for FreedomStarr Communications, Planet Earth Communications, and iPhoneBill.com?**

A. Staff is not sure, since it has not been provided with a copy of the authority to transact business in Illinois. Upon cross examination, the Applicant was not certain if the d/b/a's of Planet Earth Communications and iPhoneBill.com were filed at the same time. (Tr. p. 28.) No evidence has been presented that Cognigen or get-a-name have authority to transact business in Illinois. Additionally, no evidence has been presented by the Applicant that PECLD.com, get-a-name, get-a-host.com, Trafficboost, PECLink.net, and Checks2000.com have authority to transact business in Illinois.

**Q. Upon cross examination, was the Applicant able to provide information about Cognigen.**

A. No. The Applicant was not able to provide the full name of the company, address, or telephone number. (Tr. p. 34.) The Applicant agreed to provide the

information as a late filed Exhibit No. 2. (*Id.*) To Staff's knowledge late filed Exhibit No. 2 has not been filed.

**Q. Was the Applicant able to provide an explanation as to why both Cognigen and "get-a-name" were on the bill?**

A. The Applicant was *not certain* and *thought* that Cognigen was the agent and get-a-name was the service that was purchased and that they tend to cross-promote their services. (Tr. p. 38.) They *may* give discounts on get-a-name if they sign up for long distance service. (*Id.*)

**Q. Does the Applicant indicate how many agents it has working to recruit telecommunications customers?**

A. The Applicant did not identify a specific number of agents, only that they have many agents working with them. (Tr. p. 33.)

**Q. Has the Applicant filed tariffs with the Commission for the provisioning of state or intrastate service in Illinois pursuant to 83 Illinois Administrative Code Part 745.**

A. No. The company has stated that it will file all appropriate tariffs for providing long distance service. (Staff Data Request CJ2.06, Att. p.25.)

**Q. Do you have any concerns about the Applicant's Terms of Service?**

A. Yes. Applicant's Terms of Service states that, "Any credits or refunds that may occur from the billing disputes will be processed within 30 days from date of

original dispute.” (iPhoneBill.com Terms of Service, Att. pp. 23-4.) This statement causes Staff concern and Staff wants to ensure that the Applicant understands that pursuant to Section 9-252.1 of the PUA, that even though the Applicant will process within 30 days from the original date of the dispute, that a consumer has two years to file a complaint relating to incorrect billing.

**Q. How does the Applicant obtain new customers.**

A. The Applicant stated that his company does not “go out and solicit” customers, rather customers come to them through various web sites, whether through Cognigen or through other carriers. (Tr. pp. 40-41.) There is no telemarketing or solicitation from the Applicant, the customer enters information on the internet to become a customer. (Tr. p. 41.) So there is very little slamming in that regard. (*Id.*) The Applicant also stated that they do everything that they can in their audit to make sure that their customers truly want their service through its customer support department. (*Id.*)

**Q. Please describe Illinois’ statute on slamming and cramming.**

A. Section 13-902(c), (d), and (e), of the PUA, describes the rules for verification of a subscriber’s change of telecommunications carrier or addition to a subscriber’s service. In part, this Section states:

(b) A subscriber’s presubscription of a primary exchange or interexchange telecommunications carrier may not be switched to another telecommunications carrier without the subscriber’s authorization.

(c) A telecommunications carrier shall not effectuate a change to a subscriber's telecommunications service by providing an additional telecommunications service that results in an additional monthly charge to the subscriber (herein referred to as an "additional telecommunications service") without following the subscriber notification procedures set forth in this Section...

(d) It is the responsibility of the company or carrier requesting a change in a subscriber's telecommunications carrier to obtain the subscriber's authorization for the change whenever the company or carrier acts as a subscriber's agent with respect to the change.

(e) A company or telecommunications carrier submitting a change in a subscriber's primary exchange or interexchange telecommunications carrier as described in subsection (d) shall be solely responsible for providing written notice of the change to the subscriber in accordance with this Section, or for obtaining verification of the subscriber's assent to the change in accordance with this Section. In addition, a telecommunications carrier that

provides any additional telecommunications service to a subscriber shall be solely responsible for providing written notice of the additional telecommunications service to the subscriber in accordance with this Section, or for obtaining verification of the subscriber's assent to the additional telecommunications service in accordance with this Section.

**Q. Does the Applicant get a signed Letter of Authorization ("LOA") from a customer prior to switching service?**

A. The Applicant stated that it would obtain a LOA from a customer prior to switching service. (Tr. p. 46.) However, the Applicant could not positively state which company name would appear on the LOA. (*Id.*) In fact, the Applicant

could not positively state which company name would appear on the telephone bill, just the company name that customer would *probably* see. (*Id.*)

**Q. Do you agree with the Applicant that since consumers sign up for service via a web site that there is no solicitation or telemarketing involved in securing new customers?**

A. No. In Staff's opinion, the posting of information about the company and its rates to a web site for consumers to review and instantly sign up constitutes solicitation and telemarketing. This would be no different than if the company mailed this information to a consumer. Furthermore, it is a form of telemarketing since the consumer is using the telephone to sign up with the company.

**Q. What measures has the Applicant taken to ensure that its agents do not slam and cram customers?**

A. The Applicant has provided no evidence that the company has imposed any requirements on any of the employees or agents soliciting customers for his company to prevent slamming and cramming. The Applicant stated that it was his understanding from talking with his agents that they are "*kind of*" on the same school of thought that since the consumers comes to his company through the web page, slamming is not an issue. (Tr. p. 42.) During cross examination, the Applicant noted that if an agent does any thing wrong and the issue comes to the Applicant's attention, the Company will address the issue. (Tr. pp. 45-46.) The

Applicant was not familiar enough with the Company's terms of service and policies and procedures to answer any questions. (Tr. p. 46.)

**Q. Do you believe that the Applicant's service standards constitutes a violation of Section 13-902 of the Act?**

A. Yes.

**Q. Why do you believe that such standards violate Section 13-902?**

A. Evidence presented by the Applicant does not show that the Applicant has or will give new customers written notice of the change or third party verification, as required by state and federal statutes. The iPhoneBill.com True Cost™ Program 1+ Service Agreement does not provide for consumers to sign up for additional services and features, that they may have had with their existing telephone service. (Staff Cross Exhibit No. 3.)

Additionally, the Applicant has no knowledge of how the agents soliciting customers for his company operate. The Applicant has not produced any written slamming and cramming policies and procedures for employees or agents. The Applicant has also shown an indifference as to whether or not the agents abide by state or federal rules.

**Q. Is Staff aware of any additional marketing conducted by the Applicant to attract consumers?**

A. Yes. Staff has found on the "A Bell Tolls" (abelltolls.com) web site under the heading of Illinois Intrastate Plans, listings for Planet Earth Worldcom Business

7.9, Planet Earth Worldcom Residential 6.9, Planet Earth Worldcom Residential 7.9, and Planet Earth Worldcom Business 6.9, along with pricing information regarding a minimum monthly charge and rates. (Att. p.26.)

**Q. What is the purpose of the “A Bell Tolls” web site?**

A. The “A Bell Tolls” web site was designed to provide consumers with accurate and helpful information to make intelligent decisions about telecommunications. This web site is yet another marketing and soliciting tool used by the Applicant to recruit Illinois customers.

**Q. Has the Applicant discussed using a multi-level marketing provision in its organization.**

A. Yes. The Applicant stated that for FreedomStarr, in some cases, they offer the opportunity to sign people up for free and receive commissions on various levels beneath them of people that they bring into the program for long distance services. (Tr. p. 43.) An agent of FreedomStarr would be compensated for obtaining additional agents. (Tr. pp. 43-44.) FreedomStarr acts as a traditional multilevel marketing infrastructure managing six levels of people that the various agents bring into the program. (Tr. p. 44.) The Applicant also provided information on its web page regarding multi-level marketing and how consumers can ear extra money through the Company’s program. (Att. pp.27-8.)

**Q. Does Applicant have a multilevel marketing provision for iPhonebill.com?**

A. No. The Applicant explained that iPhonebill.com is a one tier reseller program where there would be one layer of commissions. (Tr. p. 44.)

**Q. Does the Applicant have a multilevel marketing program for Planet Earth Communications?**

A. Yes. The Applicant thought that Planet Earth has a one- and two-tier commission, where it will bring on master agents that have an agent network, but will not offer anything more than those two tiers. (Tr. p. 44.)

**Q. Does the Applicant have a multilevel marketing program for Cognigen?**

A. Yes. Cognigen would have a layer of agents that they could market to them. (*Id.*)

**Q. Does Illinois have any statues that address multi-level marking?**

A. Yes. The Illinois Attorney General has enforcement powers for The Consumer Fraud and Business Practices Act ("Consumer Fraud Act") (815 ILCS 505).

Section 1, paragraph (g) of the Consumer Fraud Act states:

(g) The term "pyramid sales scheme" includes any plan or operation whereby a person in exchange for money or other thing of value acquires the opportunity to receive a benefit or thing of value, which is primarily based upon the inducement of additional persons, by himself or others, regardless of number, to participate in the same plan or operation and is not primarily contingent on the volume or quantity of goods, services, or other property sold or distributed or to be sold or distributed to persons for purposes of resale to consumers. For purposes of this subsection, "money or other thing of value" shall not include payments made for sales demonstration equipment and materials furnished on a nonprofit basis for use in making sales and not for resale.(Source: P.A.

83-808.)

**Q. Does the Applicant's multi-level marketing plan appear to violate the Consumer Fraud and Deceptive Practices Act?**

A. Yes, in my opinion. The pyramid sales scheme defined in the Consumer Fraud Act, appears to describe the multi-level marketing plan that has been implemented by the Applicant.

**Q. Has FreedomStarr ever been named as a defendant in a lawsuit?**

A. Yes. Applicant's Exhibit C lists a \$75,000 law suit settlement. It is Staff's understanding that the law suit stemmed from an action of one of its independent agents using FreedomStarr's mail server to send unsolicited e-mails to the public. (Staff Data Request CJ1.02, Att. p. 29.) The agent disregarded requests from some customers to stop sending unsolicited e-mails. (Staff Data Request CJ2.02, Att. p. 30.)

**Q. Do you believe that the Applicant's application to resale telecommunication service in Illinois should be approved?**

A. No. In my opinion, the best course for the Applicant, is to withdraw his application from the Commission. In its Petition to Withdraw its Application, the Company should outline how it will give notice to its customers that it will no longer be providing service in Illinois.

**Q. If the Applicant does not withdraw its Application for telecommunications service, what is your recommendation concerning this docket?**

A. If the Applicant does not withdraw the Application, I believe that the Applicant's application should be denied with prejudice. The Applicant has the burden of proof and to provide the requisite information that it has the technical, financial and managerial qualifications. The Applicant has failed to show that it has the managerial abilities to operate as a reseller of telecommunications services under Section 13-404 of the PUA in the State of Illinois. The Applicant has been offering service in Illinois for three years without the proper authority, therefore, not abiding by Illinois statutes and rules. The Applicant has not been forthright with Staff in providing information and does not have knowledge about the Company's operational aspects and could not provide specific information to Staff on cross-examination. The Applicant does not proactively educate its employees and agents about slamming and cramming and only confronts issues about slamming and cramming when brought to his attention. Lastly, the Applicant's multi-level marketing plan appears to violate the Consumer Fraud and Deceptive Business Practices Act, which is indicative of poor management.

**Q. Do you have a recommendation as to how to address the Applicant's existing customers in Illinois?**

A. Yes. If the Applicant makes the decision to withdraw its application or the Commission denies the application, it is Staff's believe that the following

recommendations should be invoked. The Commission should require the Company to cease providing intrastate local and interexchange service in Illinois. However, before ceasing the service, the Applicant should provide the Commission with a list of current customers and the amount of money billed by the Applicant to these consumers, since it began providing service in Illinois. These customers should be given 30 days notice that the Company will no longer be providing service in Illinois and to that they need to sign up with another carrier. The Applicant should be required to pay any switching fees that the consumer may be assessed. Additionally, since the Company has been billing consumers without the proper authority and without tariffs on file, all monies paid by Illinois consumers to the Applicant should be refunded.

**Q. If the Commission disagrees with your position and approves the Applicant's application to resale telecommunications service are there any conditions that you believe should be required of the Applicant?**

A. Given the lackadaisical attitude of the Applicant in the current management of the Company and in providing information to the Staff, the haphazard managerial abilities demonstrated by the Applicant during cross examination, and the confusing and possibly illegal marketing schemes of the Applicant imposing conditions would be a wasted effort. In light of the above, Staff maintains its position that the application be denied with prejudice.

**Q. Does this conclude your testimony?**

A. Yes, it does.