

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of)	
MARK and SHERYL KNOX against)	
LOTEL, INC., d/b/a COORDINATED BILLING)	Case No. U-12182
SERVICES.)	
_____)	

At the July 6, 2000 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

ORDER DENYING REHEARING

On April 24, 2000, the Commission issued an order finding that LoTel, Inc., d/b/a Coordinated Billing Services, (Coordinated) had violated Sections 502 and 505 of the Michigan Telecommunications Act, MCL 484.2502; MSA 22.1469(502) and MCL 484.2505; MSA 22.1469(505), respectively. The Commission imposed a \$20,000 fine upon Coordinated and required it to pay \$1,235.64 restitution to Mark and Sheryl Knox.

On May 24, 2000, Coordinated filed a petition for rehearing of the Commission's April 24, 2000 order. In its petition, Coordinated argues that the Commission erred when it found that (1) Coordinated's untimely filed exceptions should not be considered, (2) the third-party verification provided by Coordinated was inadequate, (3) Coordinated's response had been disingenuous at times, and (4) compensation to the Knoxes should be increased to \$1,235.64.

On June 9, 2000, the Commission Staff (Staff) filed a response to the petition for rehearing, arguing that the Commission's findings and conclusions were appropriate and supported by the record.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACCS, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

The Commission finds that Coordinated's petition does not meet the standard of Rule 403 and therefore must be denied. The Commission finds Coordinated's arguments concerning the timeliness of its exceptions unpersuasive. Those arguments have previously been adequately addressed and rejected in the April 24, 2000 order.

Further, Coordinated's argument that the Commission found third-party verification inadequate "regardless of whether the tape contained the voice of Sheryl Knox or not"¹ is not an accurate interpretation of the Commission's order. Contrary to Coordinated's assertions, the Commission adopted the ALJ's finding that the evidence presented by Ms. Knox was more credible than that provided by Coordinated. The portion of the order about which Coordinated appears to be complaining was intended to put Coordinated on notice that its tape was poor evidence to support its claim that Ms. Knox authorized the switch, and to suggest that third-party

¹Coordinated's petition, ¶ 5.

verifiers might elicit something more than extremely short one-syllable or non-word responses if they intend to be able to later demonstrate that the authorization was genuine.

Also contrary to Coordinated's belief, the Commission's imposition of a larger fine than recommended by the ALJ was not a result of adopting the Staff's position that Coordinated's response had been disingenuous at times. The statements concerning whether Coordinated maintained its position in good faith were merely restating the Staff's position. The Commission's rationale for imposing the greater fine is explained in the paragraph finding that action appropriate.

Finally, the Commission rejects Coordinated's argument that the restitution award is not supported by the record. The Commission explained how it reached its determination regarding restitution. Further, the statute provides the Commission authority to order remedies making the complainant whole for violations of Section 505. See MCL 484.2506(2); MSA 22.1469(506)(2).

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACCS, R 460.17101 et seq.
- b. Coordinated's petition for rehearing should be denied.

THEREFORE, IT IS ORDERED that the petition for rehearing filed by LoTel, Inc., d/b/a Coordinated Billing Services, is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of July 6, 2000.

/s/ Dorothy Wideman
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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Suggested Minute:

“Adopt and issue order dated July 6, 2000 denying the petition for rehearing filed by LoTel, Inc., d/b/a Coordinated Billing Services, as set forth in the order.”