

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of:)	DOCKET NO. UT-971163
)	
DESTINY TELECOMM)	ORDER GRANTING COMPLAINT;
INTERNATIONAL, INC.)	ASSESSING PENALTIES; AMENDING
)	REGISTRATION; ORDERING COMPANY
)	TO CEASE AND DESIST, AND TO AMEND
)	TARIFF
.....)	

SUMMARY

PROCEEDINGS: This is a show cause proceeding in which the Commission, at the request of the staff of the Commission ("Commission Staff"), has directed Destiny Telecomm International, Inc. ("Destiny") to appear before it to show cause why the Commission should not impose penalties upon Destiny pursuant to RCW 80.04.380 and RCW 80.04.405, and why the Commission should not cancel Destiny's registration with the Commission as a telecommunications company pursuant to RCW 80.36.350, for alleged failures to comply with the Commission orders, directions, rules, and statutes.

A Complaint and Order to Show Cause was filed on July 21, 1997, and amended on August 13, 1997. The Complaint and Order, as amended, alleges that Destiny has not provided the Commission financial information required by the Commission's Order authorizing Destiny's registration as a telecommunications company; that Destiny has not adjusted its bond as required by the Order authorizing its registration, and as further directed in a Commission letter; that Destiny has violated WAC 480-120-101(5) and WAC 480-120-101(7); and RCW 80.36.080.

HEARINGS: A hearing was held on September 8, 1997, before Administrative Law Judge John Prusia. Destiny did not appear at the hearing. The administrative law judge found Destiny in default. Commission Staff proceeded to put on its case, through two witnesses. At hearing, Commission Staff requested that the Commission order lesser sanctions than total cancellation of Destiny's registration with the Commission as a telecommunications company, which would have the effect of putting Destiny out of the prepaid calling card business. Commission Staff has waived entry of an initial order so that the record may proceed directly to consideration by the Commission.

COMMISSION: The Commission finds Destiny in violation of Commission statutes, rules, and orders as alleged in the Complaint and Order to Show Cause, as amended, with one exception. The Commission imposes the penalties provided by statute, and restricts Destiny's authorization to conduct business in the state.

APPEARANCES: Robert Cedarbaum, Assistant Attorney General, Olympia, represents the staff of the Washington Utilities and Transportation Commission

MEMORANDUM

The Commission regulates telecommunications companies under Title 80 RCW. RCW 80.01.040 and RCW 80.36.140 authorize the Commission to regulate the rates and services of telecommunications companies. RCW 80.36.350 requires telecommunications companies to register with the Commission, authorizes the Commission to require as a precondition to registration the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, and provides that the Commission may deny registration to any telecommunications company which fails to provide a required performance bond.

The Commission is authorized to impose penalties against telecommunications companies for violations of Commission laws, orders, rules, or requirements by RCW 80.04.380 and RCW 80.04.405. RCW 80.04.380 authorizes the Commission to impose a penalty up to \$1,000 for each and every violation of, or failure to comply with, a Commission statute, order, rule, direction, or requirement. RCW 80.04.405 authorizes the Commission to impose an additional penalty of \$100 for every violation of a Commission statute, order, rule, or decision. Both statutes provide that every violation is a separate and distinct offense, and in case of a continuing violation every day's continuance shall be deemed to be a separate and distinct offense.

Destiny Telecomm International, Inc. is registered with the Commission as a telecommunications company. The Commission authorized Destiny to register as a telecommunications company by an order entered April 9, 1997, in Commission Docket No. UT-970453 (hereinafter referred to as the "Order Authorizing Registration"). Destiny has filed a tariff with the Commission, which the Commission has approved. A service set out in the tariff is prepaid calling card ("debit card") service. As a precondition to registration, the Commission required Destiny to procure a performance bond sufficient to cover any advances or deposits the company might collect from its customers.

This is a show cause proceeding in which the Commission, at the request of Commission Staff, has directed Destiny to appear before it to show cause why the Commission should not impose penalties upon Destiny, and why the Commission should not cancel Destiny's registration with the Commission as a telecommunications company, for alleged violations of law, violations of Commission rules, and violations of a Commission order and related directive. The Complaint and Order to Show Cause was filed on July 21, 1997, and amended on August 13, 1997.

As amended, the Complaint and Order to Show Cause seeks penalties, pursuant to RCW 80.04.380, of up to \$1,000 per violation per day for the violations alleged; penalties, pursuant to RCW 80.04.405, of up to \$100 per violation per day for the violations alleged; and cancellation of Destiny's registration with the Commission as a telecommunications company.

The Complaint and Order, as amended, alleges that Destiny has not provided the Commission financial information required by its Order Authorizing Registration, and as further directed in a Commission letter; that Destiny has not adjusted its bond as required by the Order Authorizing Registration, and as further directed in a Commission letter; that Destiny has violated WAC 480-120-101(5) with respect to handling customer complaints; that Destiny has not had staff available as required by WAC 480-120-101(7); and that Destiny has violated RCW 80.36.080 by selling debit cards for amounts which exceed the amounts contained in its tariff.

A hearing was held on September 8, 1997. Destiny did not appear at the hearing. The administrative law judge found Destiny in default. Commission Staff proceeded to put on evidence in support of the Complaint and Order to Show Cause, as amended, through two witnesses.

At hearing, Commission Staff requested that the Commission order lesser sanctions than total cancellation of Destiny's registration with the Commission as a telecommunications company. Commission Staff requested that the Commission instead revoke Destiny's authorization to issue debit cards; order Destiny to cease and desist from offering debit card service; order Destiny to make a tariff filing which cancels the debit card service set out in the company's present tariff; order Destiny to provide refunds to all debit card customers requesting refunds within fifteen days of the customer's request; order Destiny to take specified steps to activate its customer service numbers; and order Destiny to staff its customer service lines in a manner sufficient to answer and respond to customer calls. Commission Staff has waived entry of an initial order so that the record may proceed directly to consideration by the Commission.

The evidence establishes the violations alleged in the Complaint and Order to Show Cause, as amended, with one exception. The monetary penalties requested are authorized by statute and should be imposed, consistent with the evidence. The sanctions requested at hearing are appropriate, and should be imposed.

A summary of the violations established, and the penalties and sanctions allowed by statute for those violations, follows.

- (a) Destiny has not provided the Commission with financial information as set forth in ordering paragraph 5 of the Order Authorizing Registration:

Paragraph 5 of the Order Authorizing Registration (hereinafter sometimes referred to as "ordering paragraph 5") orders Destiny to file monthly financial information by the fifteenth of the following month, as follows:

Destiny ... will submit to the Commission monthly financial data filed by the 15th of each month, commencing on May 15, 1997, listing the total outstanding debit calling card balance and current company financial information determined by the Commission. Current company financial information shall include and not be limited to, debit cards sold, and total dollar amount of outstanding balances of debit cards sold.

The purpose of the reporting requirement, as set out in the Order Authorizing Registration, is to inform the Commission when Destiny's liability on outstanding balances on customer advance payments for calling cards (debit cards) exceeds the amount secured by the bond that the Order requires Destiny to file for the protection of those advance payments.

Since entry of the Order Authorizing Registration, Destiny has filed two monthly financial reports with the Commission, for the months of April 1997 and May 1997. Neither report complies with ordering paragraph 5, in that neither reports the outstanding balance on customer prepayments for debit cards as required by ordering paragraph 5. The filings reported an "outstanding balance" figure which relates only to activity within the previous month. The figure cannot reasonably be construed as indicating the outstanding balance on customer prepayments for debit cards. On July 3, 1997, the Commission advised Destiny by letter that the financial reports submitted for April and May did not comply with ordering paragraph 5, and gave Destiny a deadline of July 15, 1997, to comply with ordering paragraph 5 by reporting a total dollar amount of outstanding balances of debit cards which reflects a cumulative balance of all calling cards sold in Washington less the usage of those cards through the reporting date. Destiny failed to report that information by the July 15, 1997, deadline, and had not reported that information as of the date of the hearing.

As of the date of hearing, September 8, 1997, Destiny had not filed monthly financial reports required by ordering paragraph 5 for the months of June and July 1997.

As of the date of hearing, Destiny has committed four violations of ordering paragraph 5 with regard to the requirement that it submit monthly financial reports. Each violation is a continuing violation. The violations subject Destiny to penalties of up to \$1,000 per violation per day pursuant to RCW 80.04.380 and \$100 per violation per day pursuant to RCW 80.04.405. The continuing violations subject Destiny to penalties, through September 7, 1997, as follows:

(1) For its continuing failure to report financial information for the month of April 1997 as required by ordering paragraph 5, a penalty under RCW 80.04.380 which totals \$115,000, and a penalty under RCW 80.04.405 which totals \$11,500;

(2) For its continuing failure to report financial information for the month of May 1997 as required by ordering paragraph 5, a penalty under RCW 80.04.380 which totals \$84,000, and a penalty under RCW 80.04.405 which totals \$8,400;

(3) For its continuing failure to report financial information for the month of June 1997 as required by ordering paragraph 5, a penalty under RCW 80.04.405 which totals \$54,000, and a penalty under RCW 80.04.405 which totals \$5,400; and

(4) For its continuing failure to report financial information for the month of July 1997 as required by ordering paragraph 5, a penalty under RCW 80.04.405 which totals \$23,000, and a penalty under RCW 80.04.405 which totals \$2,300 through September 7, 1997.

- (b) Destiny has not adjusted its bond based upon data submitted to the Commission in its May and June 1997 financial reports, as required by ordering paragraph 5 of the Order Authorizing Registration

The Order Authorizing Registration directs Destiny to file a bond to protect customer prepayments for calling cards. It directs Destiny to file the bond in an initial amount of \$5,000. It requires that the bond will increase as customer base increases or if monthly financial reports required by the order indicate that Destiny's liability on outstanding balances exceeds the amount secured by the bond. Ordering paragraph 5 orders Destiny to adjust the amount held in bond based on the reported data by the 15th of the following month.

On July 3, 1997, the Commission by letter directed Destiny as follows:

The Commission is seriously concerned that the current \$5,000 bond is insufficient to protect Washington consumers. Based upon Destiny's May and June financial reports, and consistent with the Order in Docket UT-970453, Destiny is directed to increase its bond to \$54,000 by July 15, 1997. The \$54,000 is based upon Destiny's monthly reported sales in Washington.

The July 3 letter gave Destiny until July 15, 1997, to increase the bond amount.

Based upon the information available to the Commission, \$54,000 is a conservative figure to require for the bond. The only two financial reports that Destiny filed, for April 1997 and May 1997, failed to provide the information necessary to determine the proper amount for the bond. However, although the information provided is incomplete, the sales and usage figures for those months, if true, clearly show that the outstanding balance on customer prepayments had to have been at least \$287,578.83 at the beginning of May 1997.

As of the date of hearing, September 8, 1997, Destiny had not increased the bond amount above the initial \$5,000. That failure is a violation of the Order Authorizing Registration and a violation of the Commission's related July 3, 1997, direction. The violation has been a continuing one beginning July 16, 1997. The continuing violation subjects Destiny to penalties of up to \$1,000 per day pursuant to RCW 80.04.380 and \$100 per day pursuant to RCW 80.04.405.

For its continuing failure to increase its bond to \$54,000 as required by ordering paragraph 5 and as directed by the Commission's July 3, 1997, letter, Destiny is subject to a penalty under RCW 80.04.380 which totals \$54,000 for the period July 16, 1997, through September 7, 1997, and has incurred a penalty under RCW 80.04.405 which totals \$5,400 for the period July 16, 1997, through September 7, 1997.

- (c) Destiny has failed to report to the Commission as required by WAC 480-120-101(5) concerning certain customer complaints that the Commission referred to Destiny on July 17, 1997, and August 5, 1997

Commission Staff referred one customer complaint (Ohlinger complaint) to Destiny on July 17, 1997, and referred two other customer complaints (McDonald complaints) to Destiny on August 5, 1997. Destiny failed to respond to the complaints as required by WAC 480-120-101(5). That rule is as follows:

(5) When a complaint is referred to a telecommunications company by the commission, the utility shall, within 2 working days, report results of any investigation made regarding the complaint to the commission and shall keep the commission currently informed as to progress made with respect to the solution of, and final disposition of, the complaint. If warranted in a particular case, a utility may request an extension of time.

Staff requested a response by July 21 to the Ohlinger complaint referred to Destiny on July 17, 1997. Destiny did not report to the Commission results of any investigation made regarding the complaint, or in any way keep the Commission currently informed as to progress made with respect to the solution of, and final disposition of, the complaint, or request an extension of time with respect to the complaint, until August 4, 1997. Commission Staff contacted Destiny's legal counsel on August 4, 1997, and was told by him that Destiny intended to do nothing with the complaint. The legal counsel's statement informed the Commission of the final disposition of the complaint. The evidence establishes a continuing violation of WAC 480-120-101(5) during the period July 22, 1997, through August 2, 1997. The violation subjects Destiny to penalties of up to \$1,000 per violation per day pursuant to RCW 80.04.380 and \$100 per violation per day pursuant to RCW 80.04.405. For that violation, destiny is subject to a penalty under RCW 80.04.380 of \$12,000 and a penalty under RCW 80.04.405 of \$1,200.

Staff requested a response by August 7 to the McDonald complaints referred to Destiny on August 5, 1997. Destiny has never reported to the Commission results of any investigation made regarding either of the complaints, or in any way kept the Commission currently informed as to progress made with respect to the solution of, and final disposition of, either of the complaints, or requested an extension of time with respect to either of the complaints. The evidence establishes two continuing violations of WAC 480-120-101(5) beginning August 8, 1997, and continuing as of the time of hearing. The violations subject Destiny to continuing penalties of up to \$1,000 per violation per day pursuant to RCW 80.04.380 and \$100 per violation per day pursuant to RCW 80.04.405. The total accrued penalties for these violations, through September 7, 1997, is \$62,000 under RCW 80.04.380 and \$6,200 under RCW 80.04.405.

- (d) Destiny has failed to have personnel available during regular work days to respond to Commission staff as required by WAC 480-120-101(7)

The evidence establishes that Commission Staff attempted thirty-four different times to contact Destiny by telephone during regular work days to address the customer complaints referred to above, during the period August 5, 1997, through September 7, 1997. Some of the calls were to the customer service number listed on the Destiny debit cards issued to the complaining customers. The rest of the calls were to five other numbers that Commission Staff had for Destiny personnel. All of the calls either were not answered or were answered with a recording that the number could not be completed as dialed. By September 2, 1997, all six numbers rang into a recording that indicated that calls could not be completed as dialed.

The evidence establishes thirty-four separate violations by Destiny of WAC 480-120-101(7). That rule is as follows:

(7) Each telecommunications company shall ensure that it has personnel available during regular work days to address customer complaints or inquiries and to respond to commission staff. Regular work days mean Monday-Friday, excluding official state holidays.

The violations subject Destiny to penalties of up to \$1,000 per violation pursuant to RCW 80.04.380 and \$100 per violation pursuant to RCW 80.04.405. For those violations, Destiny is subject to penalties totaling \$34,000 under RCW 80.04.380 and \$3,400 under RCW 80.04.405.

(e) Alleged violations of RCW 80.36.080 are not established

The Complaint and Order to Show Cause, as amended, alleges that Destiny violated RCW 80.36.080 by selling prepaid calling cards in denominations which exceed the amounts set out in its tariff. RCW 80.36.080 requires that all rates and charges of a telecommunications company shall be fair, just, reasonable and sufficient.

The evidence fails to support the allegation. Commission Staff introduced evidence which shows that Destiny has sold prepaid calling cards in denominations that exceed the amounts set out in its current tariff. However, all of the cards were sold in January and February 1997. That was before Destiny's tariff became effective (May 25, 1997), and even before Destiny filed its application for registration and its proposed tariff (March 7, 1997). The evidence may establish a violation of some Commission statute, but not the violation alleged.

(f) The sanctions proposed at hearing are reasonable and should be imposed

The Complaint and Order to Show Cause, as amended, proposed that the Commission sanction Destiny for its violations of Commission orders and rules by canceling the company's registration with the Commission as a telecommunications company pursuant to RCW 80.36.350. In view of the seriousness and continuing nature of the violations established on this record, that proposed sanction would be appropriate. Destiny has shown a egregious disregard of its obligations under Commission orders and rules, and a egregious disregard of its obligations to its customers.

At hearing, Commission Staff proposed lesser sanctions than complete deregistration. The sanctions proposed at hearing are outlined on page 3 of this order and in Finding of Fact No. 15. The proposed sanctions would put Destiny out of the prepaid calling card business. We will accept Commission Staff's recommendation to impose the lesser sanctions. The lesser sanctions appear

reasonably tailored to eliminate the abuses revealed in this record, clearly establish Destiny's obligations to existing holders of its prepaid calling cards, and may facilitate the enforcement of this order and continued monitoring of Destiny's activities.

Having discussed above in detail both the oral and documentary evidence concerning all material matters, and having stated findings and conclusions, the Commission now makes the following summary of those facts. Those portions of the preceding detailed findings pertaining to the ultimate findings are incorporated herein by reference.

FINDINGS OF FACT

1. The Washington Utilities and Transportation Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, and transfers of public service companies including telecommunications companies.

2. Destiny Telecomm International, Inc. is engaged in the business of furnishing telecommunications service to the public within the State of Washington.

3. Destiny filed its application for registration as a telecommunications company on March 7, 1997. By Order entered April 9, 1997, in In the Matter of Destiny Telecomm International Incorporated, Inc., for an Order Authorizing the Registration of the Applicant as a Telecommunications Company, Docket No. UT-970453, the Commission approved Destiny's application (hereinafter referred to as "Order Authorizing Registration"). The Order Authorizing Registration, which is Exhibit 1, sets out specific requirements regarding the monthly reporting of financial information, including the outstanding balance on customer advance payments for pre-sold calling cards (debit cards), and the posting and periodic adjustment of a bond to protect the customer advance payments. The Order Authorizing Registration requires the filing of the financial reports by the 15th of the following month. The Order Authorizing Registration approved a proposed tariff and authorized its filing.

4. Destiny filed its tariff on April 23, 1997, with an effective date of May 25, 1997. It filed an initial bond in the amount of \$5,000.00 prior to the effective date of its tariff.

5. On July 21, 1997, the Commission ordered Destiny to appear and show cause why the Commission should not impose penalties upon Destiny, pursuant to RCW 80.04.380 and RCW 80.04.405, for committing certain alleged violations of the Order Authorizing Registration. The order to show cause included a notice of hearing at which evidence would be received, set for September 8, 1997. On August 13, 1997, the Commission amended the order to show cause to include alleged violations of law and Commission rules. The Complaint and Order to Show

Cause, as amended, stated that the violations subject Destiny to penalties of up to \$1,000 per violation per day, plus \$100 per violation per day. The Amended Complaint and Order to Show Cause additionally ordered Destiny to show cause why the Commission should not cancel Destiny's registration as a telecommunications company pursuant to RCW 80.36.350.

6. The order to show cause, as amended, alleged the following violations of law, Commission rules, and Commission order:

- (a) Destiny has not provided the Commission with financial information as set forth in ordering paragraph 5 of the Order Authorizing Registration;
- (b) Destiny has not adjusted its bond based upon data submitted to the Commission in its June 1997 financial report, as required by ordering paragraph 5 of the Order Authorizing Registration and as further directed by the Commission in a July 3, 1997 letter;
- (c) Destiny has failed to report to the Commission as required by WAC 480-120-101(5) concerning certain customer complaints that the Commission referred to Destiny on July 17 and August 5, 1997;
- (d) Destiny has failed to have personnel available during regular work days to respond to Commission staff as required by WAC 480-120-101(7); and
- (e) Destiny has sold debit cards for amounts which exceed the amounts contained in its tariff, in violation of RCW 80.36.080.

7. Destiny did not appear at the time and place specified in the notice of hearing on the order to show cause, and was found in default. The matter was heard.

8. Two Commission Staff witnesses testified in support of the Amended Complaint and Order to Show Cause. Fred Ottavelli, a program consultant with the Commission, testified concerning the alleged violations of the Order Authorizing Registration and Commission Staff's recommendation with respect to penalties and sanctions. Mary M. Taylor, Consumer Program Specialist, testified concerning the alleged violations of WAC 480-120-101 and RCW 80.36.080.

9. Destiny has not provided financial information as required by ordering paragraph 5 of the Order Authorizing Registration. In May 1997, Destiny filed a financial report concerning the month of April 1997. In June 1997, Destiny filed a financial report concerning the month of May 1997. Neither filing reported the outstanding balance on customer prepayments for debit cards as required by ordering paragraph 5 of the Order Authorizing Registration. The filing reported an "outstanding balance figure" which related only to activity within the previous month. The figure cannot reasonably be construed as reporting the outstanding balance on customer prepayments for debit cards. On July 3, 1997, the Commission by letter advised Destiny that the two financial reports did not comply with ordering paragraph 5 in that they did not report a total dollar amount out outstanding customer prepayments for debit cards, and gave Destiny a deadline of July 15, 1997, to comply with ordering paragraph 5. Destiny has not reported the required information as of the date of hearing, September 8, 1997. Destiny has not filed monthly financial reports for the months of June and July 1997 as of the date of hearing, September 8, 1997.

10. Destiny has not increased the amount of its bond as required by ordering paragraph 5 of the Order Authorizing Registration, and as directed by the Commission in a July 3, 1997 letter. The only two financial reports that Destiny filed, in May 1997 and June 1997, failed to provide the information necessary to determine the proper amount for the bond. However, although the information provided is incomplete, the sales and usage figures for those months, if true, clearly show that the outstanding balance on customer prepayments had to have been over \$287,578.83 at the beginning of May 1997. On July 3, 1997, the Commission directed Destiny to increase the bond to \$54,000 by July 15, 1997, based upon reported monthly sales in May. That figure is a reasonable, quite conservative, figure to require for the bond based upon the information available to the Commission.

11. On July 17, 1997, the Commission referred one customer complaint to Destiny, concerning Destiny debit card customers named Ohlinger. Commission Staff requested that Destiny report back to the Commission with the results of Destiny's investigation of the complaint by July 21, 1997. Destiny did not report back to the Commission until August 4, 1997. On August 4, 1997, Destiny's legal counsel informed the Commission that Destiny intended to do nothing with the complaint.

12. On August 5, 1997, the Commission referred two customer complaints to Destiny, concerning two Destiny debit card customers named McDonald. Commission Staff requested that Destiny respond to the complaints by August 7, 1997, pursuant to WAC 480-120-101(5). Destiny had not responded to the Commission regarding those two complaints as of the date of hearing, September 8, 1997.

13. On at least thirty-four occasions during the period August 5, 1997, through September 7, 1997, Destiny did not have personnel available during regular work days to respond to Commission Staff.

14. On January 21, 1997, Destiny sold two debit cards in Spokane in the following denominations: \$300 and \$700. On February 3, 1997, Destiny sold three debit cards in Vancouver in the following denominations: \$300, \$300, and \$750. This evidence does not demonstrate that Destiny sold debit cards in denominations greater than those provided in its tariff on file with the Commission.

15. At hearing, Commission Staff recommended lesser sanctions than complete cancellation of Destiny's registration with the Commission as a telecommunications company. Staff recommended the following sanctions:

- (a) Amend Destiny's registration to eliminate the authority to engage in prepaid calling card (debit card) activity;
- (b) Order Destiny to cease and desist from offering prepaid calling card service;
- (c) Order Destiny to file new tariffs which do not include prepaid calling card service;
- (d) Order Destiny, within three days of the Commission's order, to contact its underlying long distance carrier and request expedited reactivation of its customer service numbers; and
- (e) Order Destiny to staff its customer service lines sufficiently to answer and respond to customer calls.

16. Commission Staff waived an initial order in this matter.

CONCLUSIONS OF LAW

1. The Washington Utilities and Transportation Commission has jurisdiction over the subject matter of this proceeding and all parties to this proceeding.

2. As to the violations alleged in the Complaint and Order to Show Cause, as amended, and the penalties provided by statute for those violations,

- (a) As of the date of hearing, September 8, 1997, Destiny has committed four separate violations of a Commission order by not providing financial information as required by ordering paragraph 5 of the Order Approving Registration. The first violation began

on May 16, 1997, the second on June 16, 1997, the third on July 16, 1997, and the fourth on August 16, 1997. The violations are continuing. The violations subject Destiny to penalties of up to \$1,000 per violation per day pursuant to RCW 80.04.380, and subject Destiny to additional penalties of \$100 per violation per day pursuant to RCW 80.04.405.

- (b) Destiny violated a Commission order, and violated a Commission direction, by not increasing the amount of its bond as required by ordering paragraph 5 of the Order Authorizing Registration and as further directed by the Commission's July 3, 1997 letter. The violation began on July 16, 1997, and is continuing. The violation subjects Destiny to penalties of up to \$1,000 per day pursuant to RCW 80.04.380, and subjects Destiny to additional penalties of \$100 per day pursuant to RCW 80.04.405.
- (c) Destiny violated WAC 480-120-101(5) by failing to respond to the Commission's July 17, 1997, referral of the Ohlinger complaint until August 4, 1997. The violation began on July 22, 1997, and continued through August 3, 1997. The violation subjects Destiny to penalties of up to \$1,000 per day pursuant to RCW 80.04.380, and subjects Destiny to additional penalties of \$100 per day pursuant to RCW 80.04.405.
- (d) Destiny has committed two violations of WAC 480-120-101(5) by failing to respond to the Commission's August 5, 1997, referrals of the two McDonald complaints. The violations began on August 7, 1997, and are continuing. The violations subject Destiny to penalties of up to \$1,000 per violation per day pursuant to RCW 80.04.380, and subject Destiny to additional penalties of \$100 per violation per day pursuant to RCW 80.04.405.
- (e) Destiny violated WAC 480-120-101(7) on thirty-four occasions during the period August 5, 1997, through September 7, 1997, by failing to have personnel available during regular work days to respond to Commission Staff. The violations subject Destiny to penalties of up to \$1,000 per violation pursuant to RCW 80.04.380, and subject Destiny to additional penalties of \$100 per violation pursuant to RCW 80.04.405.
- (f) The evidence of record fails to demonstrate that Destiny has violated RCW 80.36.080.

3. Penalties should be assessed upon Destiny for the violations that have been found. Imposition of penalties in the full amount allowed by law is appropriate in view of the egregious and continuing nature of the violations.

4. The sanctions proposed by Commission Staff at hearing are appropriate and necessary for the protection of the public, and should be imposed.

5. An initial order may properly be omitted in this matter.

Based upon the above findings of fact and conclusions of law, the Commission makes and enters the following Order.

ORDER

THE COMMISSION ORDERS:

1. The Commission assesses against Destiny Telecomm International, Inc. ("Destiny") the full amount of the penalties provided by RCW 80.04.380 and RCW 80.04.405 for the violations found in this order. Through September 7, 1997, the accrued amount of the assessed penalties is:

- (a) For the four continuing violations of ordering paragraph 5 with regard to the requirement that Destiny submit monthly financial reports, \$276,000 under RCW 80.04.380 and \$27,600 under RCW 80.04.405;
- (b) For the continuing violation of ordering paragraph 5 with regard to the requirement that Destiny adjust its bond, \$54,000 under RCW 80.04.380 and \$5,400 under RCW 80.04.405;
- (c) For the violation of WAC 480-120-101(5) between July 22, 1997 and August 3, 1997 (Ohlinger complaint), \$12,000 under RCW 80.04.380 and \$1,200 under RCW 80.04.405;
- (d) For the continuing violations of WAC 480-120-101(5) (McDonald complaints), \$62,000 pursuant to RCW 80.04.380 and \$6,200 pursuant to RCW 80.04.405.
- (e) For the violations of WAC 480-120-101(7), \$34,000 under RCW 80.04.380 and \$3,400 under RCW 80.04.405.

2. The collection of said penalties is referred to the Office of the Attorney General pursuant to RCW 80.04.400.

3. Destiny's authorization to register as a telecommunications company is restricted against the authority to sell prepaid calling cards.

4. Destiny is ordered to immediately cease and desist from offering prepaid calling card service.

5. Destiny is ordered to file, within ten days of this Order, a replacement tariff which does not include prepaid calling card service. The filing is strictly limited in scope to effectuate the terms of this decision and Order.

6. Destiny is ordered, within three days of this Order, to contact its underlying long distance carrier and request expedited reactivation of its customer service numbers.

7. Destiny is ordered to staff its customer service lines sufficiently to answer and respond to customer calls and to answer and respond to Commission Staff at all times during regular work days.

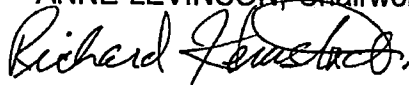
8. The commission retains jurisdiction over the parties and subject matter to effect the terms of this Order.

DATED at Olympia, Washington, and effective this ^{30~~th~~} day of September 1997.

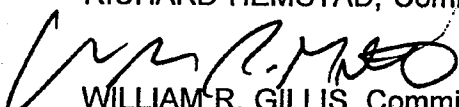
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ANNE LEVINSON, Chairwoman



RICHARD HEMSTAD, Commissioner



WILLIAM R. GILLIS, Commissioner

NOTICE TO PARTIES:

This is a final order of the Commission. In addition to judicial review, administrative relief may be available through a petition for reconsideration, filed within 10 days of the service of this order pursuant to RCW 34.05.470 and WAC 480-09-810, or a petition for rehearing pursuant to RCW 80.04.200 and WAC 480-09-820(1).