STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on October 20, 2004

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
Leonard A. Weiss
Neal N. Galvin

CASE 04-C-1276 - Proceeding on Motion of the Commission Regarding RNK Inc.'s Blocking Obligations Concerning Chatline Services.

ORDER DIRECTING RNK INC. TO SHOW CAUSE

(Issued and Effective October 20, 2004)

BY THE COMMISSION:

SUMMARY

All local exchange carriers that have chatline[1] services operating on their networks are required to provide such services on end user blockable central office codes, and to file tariffs containing certain terms and conditions for the provision of service to chatline service providers. It appears that RNK Inc. ("RNK") has failed in several respects to comply with the Commission's Orders issued October 16, 1998 in Case

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[1] Chatlines are services which utilize advertised telephone numbers that consumers can call to join with any number of generally anonymous callers to engage in a casual, ongoing telephone conversation on a variety of topics. See Case 98-C-1273 et al., ACC National Telecom Corp., Order Directing Carriers to File Tariffs for Chatline Services and Related Actions (issued February 4, 1999), p. 2 n. 2.

98-C-1273[2] ("October 16, 1998 Order") and February 4, 1999 in Cases 98-C-1273 and 98-C-1479[3] ("February 4, 1999 Order"). In the instant Order, RNK is directed to show cause why the Commission should not proceed against it with a penalty action pursuant to Section 25 of the Public Service Law.

BACKGROUND

In September 2004, Staff learned that a minor female reportedly had been induced via a chatline to travel a considerable distance from her home and to have inappropriate contact with an adult male in New York City. The chatline over which this alleged inducement occurred had been operating on RNK's network in the New York City metropolitan area.

Upon investigation, Staff determined that RNK had been providing service to a single chatline provider on non-blockable numbers.[4] Staff ascertained that as many as 117 non-blockable numbers were provided by RNK to chatlines throughout approximately the past two years. Staff also learned that RNK had failed to file tariff provisions governing chatline service.

Through a series of prior orders, the Commission has established industry-wide requirements for chatline blocking. By Order issued October 16, 1998 in Case 98-C-1273, all carriers that had chatlines on their networks were directed to transfer immediately such chatlines to specific central office codes

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[2] Case 98-C-1273, ACC Telecom Corp., Order Directing Local Exchange Carriers to Provide Consumers Options by Which They Can Block Access to Content Related Information Services (issued October 16, 1998).

[3] Case 98-C-1273 et al., ACC National Telecom Corp., Order Directing Carriers to File Tariffs for Chatline Services and Related Actions (issued February 4, 1999).

[4] A blockable number provides end users the capability to prevent calls made to that number from being completed.

previously designated as blockable codes, or to designate the existing central office codes serving such chatlines as blockable. By Order issued February 4, 1999 in Cases 98-C-1273 and 98-C-1479, carriers were further ordered to limit chatline number access to intraLATA customers only, by contacting the Local Exchange Routing Guide (LERG) Administrator to effectuate intraLATA-only calling for central office codes utilized by chatlines. In that Order, the Commission also directed carriers to file tariff provisions indicating that chatline-type services are required to be provided on blockable numbers, and providing for termination of service where there is a violation of tariff terms and conditions concerning blocking.

In discussions with Staff, RNK acknowledged the existence of Commission chatline blocking requirements and stated it believed it was in compliance with those requirements. The company apparently thought that numbers could be blocked at the individual number level, rather than at the central office code level. The aforementioned Commission Orders make clear that carriers may only designate blockable numbers in groups of 10,000 numbers, known as “central office codes.” Individual numbers cannot be blocked unless they fall within a blockable central office code. None of the individual numbers at issue here were within blockable central office codes. Moreover, the Commission orders noted herein charge carriers with the responsibility to ascertain that chatlines are assigned to blockable central office codes.

RNK has offered no explanation as to why it had not filed a chatline services tariff.[5]

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[5] Once RNK became aware of the situation, it reacted quickly to remedy it. Working with Staff, the company expeditiously migrated its chatlines onto blockable codes. RNK has also filed tariff provisions concerning provision of chatline service.

DISCUSSION

Five years ago, the Commission, in response to several reported incidents of chatline abuse, established chatline blocking requirements in order to protect the public, especially minors, from potential harm relating to chatlines. The Order establishing these requirements expressly applies to all local exchange carriers operating within the State of New York. Therefore, the industry is, or should be, fully aware of the potential for public harm and the need for end-user blocking capacity.

Section 25(2) of the Public Service Law provides that the Commission may seek a civil penalty not to exceed one hundred thousand dollars ($100,000) whenever a person knowingly fails or neglects to obey or comply with the Commission’s orders. In the case of a continuing violation, Section 25(2) provides that each day shall be deemed a separate and distinct offense.

Based on Staff’s investigation, the Commission finds that RNK has violated our requirements that chatline services be offered solely on blockable central office codes and that such service be provided pursuant to filed tariffs which contain specific protections related to chatlines. RNK is responsible for knowing how to implement the Commission’s chatline blocking requirements. Failure to comprehend the technical parameters necessary for compliance is no excuse for noncompliance. The Commission further finds that RNK failed to timely file required tariff provisions concerning its provision of service to chatline providers.

In view of RNK’s failure, in violation of Commission orders, to secure blockable codes and ensure that its, as well as other carriers’, end users, had the capability to block access to chatlines, and to include certain provisions relating to chatlines in its tariff, RNK is ordered to show cause why the Commission should not proceed with a penalty action.

The Commission’s extensive efforts to ensure that chatline services are placed on blockable codes are intended to safeguard consumers by enabling parents and other end users to prevent the completion of telephonic communications by minors or others to these services. As discussed above, RNK has apparently violated the Commission’s Orders by 1) failing to ensure that its chatlines were operating on blockable codes; and 2) failing to file a tariff containing the terms and conditions for the provision of service to chatline service providers.

<u>The Commission orders</u>:

1. A proceeding is instituted to consider whether to commence a penalty action against RNK Inc. regarding violations set forth in this Order.

2. RNK Inc. is directed to show cause, within twenty-one (21) days of the issuance of this Order, why the Commission should not commence an action seeking penalties pursuant to Section 25 of the Public Service Law in New York State Supreme Court for violating the Commission’s October 16, 1998 Order by failing to provide service to chatline service providers solely through blockable central office codes.

3. RNK Inc. is directed to show cause, within twenty-one (21) days of the issuance of this Order, why the Commission should not commence an action seeking penalties pursuant to Section 25 of the Public Service Law in New York State Supreme Court for violating the Commission’s February 4, 1999 Order by failing to file tariff provisions concerning chatline services as required by that Order.

4. RNK Inc. is directed to show cause, within twenty-one (21) days of the issuance of this Order, why the Commission should not commence an action seeking penalties

pursuant to Section 25 of the Public Service Law in New York State Supreme Court for violating Section 92(1) of the Public Service Law by failing to file a tariff governing the provision of service to chatlines.

5. RNK Inc. is directed to report to the Commission within twenty-one (21) days from the issuance of this Order, for all LATAs it serves within the State of New York, the date each of its chatlines was connected to its network, and when each chatline was made blockable.

6. RNK Inc. is directed to file with the Commission within twenty-one (21) days of the issuance of this Order the procedures and actions it uses to ensure compliance with the Commission’s chatline blocking requirements.

7. This proceeding is continued.

By the Commission,

(SIGNED) JACLYN A. BRILLING
Secretary