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PLEASE REPLY TO
TALLAHASSEE

October 3, 1997

VIA HAND DELIVERY

Ms. Blanca Bayó
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. ~~970002~~-71 - Joint Petition of Robert A. Butterworth, Attorney General, and the Citizens of the State of Florida, by and through the Office of Public Counsel for initiation of formal proceedings pursuant to Section 120.57(1), Florida Statutes, to investigate the practice of "slamming," i.e. the unauthorized change of a customer's presubscribed carrier, and to determine the appropriate remedial measures

Dear Ms. Bayó:

Enclosed are the original and 15 copies of LCI International Telecom Corp.'s Objections to Citizen's First Request for Production of Documents in the above docket.

I have enclosed an extra copy of the Objections for you to stamp and return to me. Please contact me if you have any questions. Thank you for your assistance.

Sincerely,


Joseph A. McGlothlin

- ACK _____
- AFA _____
- APP 1
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEC JAM/sjm
- LIJ 5
- OFF _____
- RCF _____
- SEP 1
- WAT _____
- OTH Dy Lon

Encls.
cc: Pamela Melton (w/enclosure)

DOCUMENT NUMBER-DATE

~~10167~~ OCT-35

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Joint Petition of Robert A Butterworth,)
Attorney General, and the Citizens of the)
State of Florida, by and through the Office)
of Public Counsel for initiation of formal)
proceedings pursuant to Section 120.57(1),)
Florida Statutes, to investigate the practice)
of "slamming," i.e. the unauthorized change)
of a customer's preauthorized carrier, and to)
determine the appropriate remedial measures)
Docket 970682-T1
Filed: October 3, 1997

**LCI INTERNATIONAL TELECOM CORP.'S OBJECTIONS TO CITIZEN'S FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rules 26-22.034 and 26-22.095, Florida Administrative Code and
Rules 1.360 and 1.280(b), Florida Rules of Civil Procedure, LCI International Telecom
Corp. (hereinafter "LCI"), hereby submits the following Objections to Citizens of the
State of Florida's (OPC's) First Set of Requests for Production of Documents (Nos. 1-
13) to LCI.

The Objections stated herein are preliminary in nature. Should additional
grounds for objection be discovered as LCI prepares its Responses to the above-
referenced set of requests, LCI reserves the right to supplement, revise, or modify its
objections at the time that it serves its Responses. Moreover, should LCI determine
that a Protective Order is necessary with respect to any of the material requested by
the Office of Public Counsel, LCI reserves the right to file a motion with the
Commission at the appropriate time.

LCI makes the following Objections to the OPC's First Request for Production of Documents. LCI will incorporate these objections by reference when LCI submits its specific responses to OPC.

GENERAL OBJECTIONS

1. LCI objects to the request to produce in its entirety. OPC's service of a request to produce on LCI, a non-party, was not authorized by rule or order. Discovery before the Commission is governed by Rule 25-22.034. That rule states that parties may obtain discovery "through the means and in the manner" provided in Rules 1.280 through 1.409, Florida Rules of Civil Procedure.

Rule 1.350, Florida Rules of Civil Procedure, governs requests to produce documents. It provides that a party may serve such a request on another party.

This proceeding was initiated by the Commission as undocketed rulemaking, in which interested persons may elect to participate (or not) through oral and/or written comments without attaining party status. LCI had not sought to intervene as a party; in fact, the practice of the Commission is to refuse to entertain motions to intervene as parties in rulemaking proceedings.

In Order No. PSC-97-1071-PCO-TI, the Commission decided to afford OPC and the Attorney General an evidentiary hearing within the existing rulemaking proceeding, and to afford them discovery rights. However, by operation of Rules 25-22.034, F.A.C., and Rule 1.350, Florida rules of Civil Procedure, only parties are subject to the requirement that they respond to a request to produce documents. Further, Order No. PSC-97-1071-PCO-TI did not in any way purport to make LCI (or any other carrier) a

party or otherwise purport to place LCI on notice that it is obligated to respond to discovery requests that, by operation of rules, are applicable only to parties.¹ (LCI is aware that recently some petitions to intervene as a party have been filed in this docket. LCI had not filed such a petition.)

2. LCI objects to the extent the requests would require LCI to disclose privileged information, trade secrets, or confidential and proprietary business information.

3. LCI objects to the extent the requests are unduly burdensome. As explained below, LCI will have the department responsible for dealing with slamming complaints conduct a good faith, diligent review to identify responsive documents not otherwise subject to objection.

4. LCI objects to the extent the requests would require disclosure of customer information protected by Section 364.24, F.S.

5. LCI objects to the extent that the directions and definitions would attempt to impose obligations on LCI that exceed those required by the Florida Rules of Civil Procedure.

6. LCI objects to paragraph 2 of the "Definitions" section of the Request for Production of Documents to the extent that the definitions of "you" and "your" seek to impose an obligation on LCI to respond on behalf of representatives or other

¹ By this submittal, LCI asserts and preserves its objections. Without waiving this or other objections, LCI has informed OPC that LCI will voluntarily provide responses to OPC's request. LCI intends to respond to the extent the requests are relevant, are not overbroad or unduly burdensome, and do not call on LCI to disclose confidential or privileged information.

persons that can not accurately and reasonably respond to matters relative to this certificated entity's regulated telecommunications services in Florida.

7. LCI objects to the requests to the extent that they seek information pertaining to jurisdictions other than the State of Florida. LCI has interpreted OPC's requests to apply to its regulated intrastate operations in Florida and will limit its responses accordingly.

ADDITIONAL OBJECTIONS

In addition to the above, LCI states the following objections:

8. LCI objects to Requests No.2 and No.3 to the extent that such requests are overbroad and will require the disclosure of information protected by the attorney-client privilege, work product rule and/or proprietary, confidential business information. To the extent that information can be provided without violating the above protected categories, LCI will make a reasonable attempt to provide information that is in the possession or control of properly designated personnel assigned to the management of planning or unauthorized PIC change practices.

9. LCI objects to Request No. 4 to the extent that such request requires LCI to divulge privileged Company work product and/or privileged attorney/client memoranda and correspondence. However, LCI intends to respond appropriately with regard to materials that do not violate privileged or protected information.

10. LCI objects to Request No. 5 on the grounds that the request is vague, ambiguous and overly broad. LCI will seek clarification and will respond appropriately if it is clarified request is not objectionable.

11. LCI objects to Request No. 6 to the extent that such information contains confidential, privileged and/or proprietary information.

12. LCI objects to Request No. 8 on the grounds that it is overbroad. Taken literally, the request would require LCI to review every file in numerous departments on the remote chance that someone may have been copied with or consulted regarding a slamming complaint, when designated persons in LCI's Regulatory Department have responsibility for the handling of slamming-related matters and has custody of related documents. The requested information can reasonably be identified through diligent, good faith efforts of the properly designated Company custodian charged with access to the requested records. LCI intends to provide the information that is within the custody and control of such designee.

13. LCI objects to Request No. 9 on the grounds that the request is vague, overbroad and unduly burdensome. However, without waiving this objection, LCI intends to identify and provide those forms (which LCI interprets to mean representative marketing materials and the format for forms used to process applications for service) that are currently used to solicit new customers in the State of Florida.

14. LCI objects to Request No. 12 to the extent that the requested information includes information protected under the work product rule and attorney client privilege that has or is being prepared in anticipation of the rulemaking proceedings. To the extent that LCI has publicly commented on such matters, such information will be provided.

15. LCI objects to Request No. 13 to the extent that the requested information contains customer proprietary information and information and data protected under the attorney client privilege and work product rule. To the extent that such information does not violate the above protections, LCI will submit documents as appropriate.


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Attorneys for LCI International Telecom Corp.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by
Regular Mail or Hand Delivered** this 3rd day of October, 1997 to the following:

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Joseph A. McGlothlin