

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of Robert A. Butterworth, Attorney General, and the Citizens of the State of Florida, by and through Jack Shreve, Public Counsel, against LCI International for slamming David Howe in violation of Rule 25-4.118, F.A.C.

Docket No. 971403-TI

In re: Initiation of show cause proceedings against LCI International Telecom Corp. for violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection

Docket No. 971487-TI

Filed: May 14, 1998

MOTION TO HOLD PROCEEDINGS IN ABEYANCE PENDING DISPOSITION OF OFFER OF SETTLEMENT

LCI International Telecom Corp ("LCI"), through its undersigned counsel, hereby moves for an order holding further proceedings on the above consolidated dockets in abeyance pending disposition of a settlement offer submitted by LCI this date, and in

ACK _____ support states:

AFA _____

APP _____

1. On April 23, 1998, the Commission issued Order No. PSC-98-0566-SC-TI

CAF 1

("the Order"), in which it required LCI to show cause within 20 days why it should not

CFU _____

be fined or why its certificate should not be revoked for willful violation of rules

ESC _____

governing carrier changes.

COX _____

2. On May 13, 1998, LCI filed a Partial Response to said Order, and a

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Motion for More Definite Statement. In its pleadings, LCI denies that it has engaged

in any activities or conduct constituting a willful violation of the Commission's rules

WFL _____

OTH _____

DOCUMENT NUMBER-DATE

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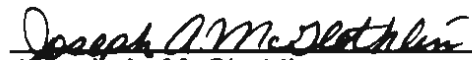
or warranting the imposition of a fine or penalty pursuant to Section 364.285, Florida Statutes.

3. While LCI denies it is liable for any fines or penalties, it has been the desire of LCI from the outset of these proceedings to cooperate with the Commission with respect to identifying a basis for settling the issues in the dockets and for serving the mutual objective of minimizing complaints of unauthorized carrier changes. To that end, LCI submitted an offer of settlement prior to the issuance of the Order. Without waiving any of its rights or the legal positions set forth in the pleadings referred to herein, and in the spirit of and for the purpose of compromise and settlement, LCI has submitted a revised offer of settlement of all issues in the consolidated dockets on this date (copy attached). In the revised settlement offer, LCI has attempted to address some of the concerns regarding the initial proposal that were expressed in informal discussions with Staff and parties.

4. LCI submits that it would be a better use of resources to hold proceedings on the Order and LCI's related pleadings pending the consideration and disposition of LCI's revised offer of settlement. The additional proceedings will necessarily be time-consuming, adversarial in nature, and therefore not conducive to settlement initiatives. If the revised offer of settlement is approved and becomes final, proceedings in the consolidated dockets, including those on the Order and the responses thereto, will become moot, and the time and resources necessary to devote to contested proceedings will have been avoided.

5. LCI believes that its proposed offer of settlement can be reviewed and considered promptly, such that the granting of this motion will not unduly delay proceedings on the Order, should they remain necessary.

WHEREFORE, LCI requests the Commission to hold further proceedings in the consolidated dockets, including Order No. PSC-98-0566-SC-TI and LCI's related pleadings, in abeyance pending the disposition by the Commission of LCI's revised offer of settlement.



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Attorney for LCI International
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Hand Delivery this 14th day of May, 1998:

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May 14, 1998

VIA HAND DELIVERY

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RE: Consolidated Complaint and Show Cause
Docket Nos. 971403-TI and 971487-TI

Dear Martha and Cathy:

In Order No. PSC-98-0566-SC-TI, the Commission required LCI International Telecom Corp, Inc. ("LCI") to show cause in writing why it should not be fined and/or its certificate should not be revoked for alleged willful violations of rules governing unauthorized carrier changes. The Order encompasses the allegations contained in a complaint filed by the Office of Public Counsel and the Attorney General, which is the subject of Docket No. 971403-TI.

On May 13, 1998, LCI filed a Partial Response to the Order, as well as a Motion for More Definite Statement of the allegations against it. In the Partial Response, LCI denies that it has willfully violated or refused to comply with any rule, order of the

ATTACHMENT

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Commission, or provision of Chapter 364, Florida Statutes, within the meaning and purview of Section 364.285, Florida Statutes, which is the source of the Commission's authority to assess penalties.

While LCI denies that it has engaged in conduct that warrants the imposition of a penalty, from the outset of these consolidated proceedings LCI has desired to cooperate with the Commission and to identify a basis for compromise and settlement of the issues raised by the allegations in the Order.

As you are aware from the meetings of LCI, Staff, and parties, LCI has also continued to actively manage its relations with the companies with whom LCI contracts to distribute its services. (LCI differs from many other carriers, in that independent contractors with whom LCI contracts for the distribution of its services through direct, face-to-face sales to customers constitute the primary source of LCI's new customers. Accordingly, the management of relations between LCI and such distributors comprises the single most effective tool for minimizing complaints of unauthorized changes that is available to LCI.) In response to an increase in the number of complaints received by the Commission during the Fall of 1997, LCI voluntarily terminated its relations with three such distributors with respect to all of their activities, whether in Florida or elsewhere. Since LCI took those actions, beginning in January of 1998, and continuing through the present, the number of complaints has fallen dramatically. LCI regards this trend as strong evidence that it has identified and dealt with the source of the complaints effectively.

These steps were costly to LCI. The terminated distributors were a significant source of incremental revenues, and the amount of revenues was growing each month. LCI conservatively estimates that the terminations will result in a negative revenue impact on Florida operations alone of more than \$1 million annually in the form of forgone new revenues.

In addition to monitoring the performance of its distributors, LCI has continued to evaluate ways to enhance its internal procedures so as to avoid or intercept inadvertent errors which potentially lead to complaints. As LCI described to you and others, LCI management now focuses quickly on any unusual quantities of LOAs it may receive from a particular distributor as an indication that additional review is warranted. Recently, this additional scrutiny enabled LCI to identify a number of discrepancies in LOAs submitted by one of the terminated distributors.

On February 26, 1998, LCI submitted an offer of settlement that was not accepted by the Commission. Based on the concerns expressed during meetings with Staff and parties, LCI has revised the original offer of settlement. It is set forth below.

This offer is made solely for the purpose of settlement and compromise. In making the offer, LCI does not waive any of its legal rights or positions and does not concede that it has engaged in any willful violations of Commission rules punishable under Section 364.285, Florida Statutes.

As a basis for settlement and compromise of the issues in the consolidated dockets, LCI proposes the following:

1. In the past, the officer of a distributor organization with whom LCI holds a contract for marketing services executed the acknowledgement form stating that the distributor understands and accepts LCI's policy prohibiting submission of carrier changes without proper authorization. Prospectively, LCI will require each individual employee of the distributor to execute the acknowledgement.
2. LCI will implement an additional step in the processing of LOAs submitted by distributors. In this additional step, LCI's data bases will perform validity checks to verify the accuracy of state, zip code, and area code information.
3. Within 30 days of the date the order approving this settlement offer becomes final and effective, and continuing for a period of six months thereafter, LCI personnel will verify 100% of all LOAs submitted in support of carrier changes for customers in Florida prior to submitting them to the LEC for processing.
4. Upon confirmation that any representative of a distributor has forged the signature of a purported new customer on a Letter of Authorization, LCI will disclose to the appropriate law enforcement official the name of the representative for investigation and for action warranted by the circumstances.

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5. For a period of twelve months following the date the order approving this offer of settlement becomes final, a representative(s) of LCI will hold a conference call with the Commission Staff monthly for the purpose of describing responses made by the Company to any complaints alleging unauthorized changes of carriers, steps taken to implement the measures delineated in this Stipulation, and other pertinent matters.

6. Upon final approval of this offer of settlement, LCI will begin providing to the Commission Staff a more detailed description of the investigation LCI makes of any future allegations of unauthorized changes in carriers in complaints it may receive from the Commission.

7. There will be no finding in the order approving this offer of settlement and closing the consolidated dockets that LCI violated any provisions of any rule, order, or statute.

8. No complaint or allegation of an unauthorized carrier change that has been received by the Commission on or before the date of the vote approving this offer of settlement shall serve as the basis for an enforcement action against LCI; further, no future complaint related to activities conducted prior to their termination by the three distributors who have been terminated by LCI will form the basis for future punitive action against LCI.

9. The order approving this offer of settlement shall not serve as any precedent and shall not form the basis for enforcement actions or for the calculation of penalties against LCI in any respect in any future proceedings.

10. Without conceding that it has committed any violation within the purview and meaning of Section 364.285, Florida Statutes, and without waiving any of its rights, LCI agrees to make a voluntary contribution of \$100,000 to the General Fund within 15 days of the date an order approving this offer of settlement becomes final and effective.

11. This offer of settlement is conditioned upon the entry of a final order approving all of the terms delineated herein, and closing both of the consolidated dockets. If any part of the offer is not approved, the entire offer of settlement shall be deemed withdrawn.

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LCI is available to meet with Staff if Staff wishes to discuss this proposal, or if Staff has any questions regarding any of its provisions.

Yours truly,



Joseph A. McGlothlin

JAM/jg

cc: Charles Beck
Michael Gross
Douglas Kinkoph