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ORIGINAL

September 22, 1998

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SEP 23 1998

via OVERNIGHT MAIL

Florida Public Service Commission
Div. of Communications, Certification
& Compliance Section
2440 Shumard Oak Boulevard
Tallahassee, Florida 32399-0866

CMU

Re: PremierCom, Inc.'s Application for Certificate to Provide Interexchange
Telecommunications Service
Docket No. 981091-TI

Dear Sir/Madam:

Enclosed are an original and seven (7) copies of Premiere Communications, Inc.'s Motion to Intervene and Oppose Application ("Motion") in the above-referenced matter. Please file the Motion in your usual fashion and return one (1) filed-stamped copy of the Motion to us in the enclosed envelope.

Thank you for your assistance in this matter.

Sincerely,

Charles A. Hudak

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU 1 _____
- CTR _____
- EAG _____
- LEG 1 _____
- LIN _____
- OPC _____
- RCH _____
- SEC 1 _____
- WAS _____
- OTH none added 9/25/98-klf

CAH/bw

Enc.

cc: Premiere Communications, Inc.
(with enclosure)
All Interested Parties
(with enclosure)

ADMINISTRATION MAIL ROOM

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FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

IN THE MATTER OF:	§	
	§	
APPLICATION OF PREMIERCOM, INC.	§	DOCKET NO. 981091-TI
FOR A CERTIFICATE TO PROVIDE	§	
INTEREXCHANGE	§	
TELECOMMUNICATIONS SERVICE	§	
WITHIN THE STATE OF FLORIDA	§	

MOTION TO INTERVENE AND OPPOSE APPLICATION

COMES NOW Premiere Communications, Inc. ("Premiere") and hereby files this Motion to Intervene and Oppose Application with the Florida Public Service Commission (the "Commission") in the above-styled proceeding. In support thereof, Premiere states as follows.

I. INTERVENTION

1. Premiere is a Florida corporation headquartered at 3399 Peachtree Road, N.E., The Lenox Building, Suite 600, Atlanta, Georgia 30326. Premiere provides long distance telecommunications resale services in Florida pursuant to Commission Order No. PSC-92-0125-FOF-TI, which was issued on March 31, 1992.

2. On September 1, 1998, PremierCom, Inc. ("Applicant"), an Illinois corporation, filed an application with the Commission for a Certificate to provide long distance telecommunications resale services in the State of Florida.

3. As a certificated provider of telecommunications services operating in the State of Florida, Premiere has a substantial interest in, and may be affected by, the Commission's decision in this matter.

4. The name and address of the attorney who is authorized to accept service of filings on behalf of Premiere in this proceeding is:

Charles A. Hudak, Esq.
Gerry, Friend & Sapronov, LLP
Three Ravinia Drive, Suite 1450
Atlanta, Georgia 30346-2131
Tel: (770) 399-9500
Fax: (770) 395-0000

5. Premiere requests intervention as a full party of record including the right to present testimony and exhibits and to cross-examine witnesses. Premiere's rights and interests in this matter will not adequately be represented by any other party and its participation herein will not unduly delay these proceedings.

II. OPPOSITION TO APPLICATION

6. Premiere hereby opposes the Commission's grant of a Certificate to Applicant to provide long distance telecommunications resale services in the State of Florida because Applicant is seeking to use a trade name confusingly similar to that of "Premiere Communications, Inc."

7. Premiere has a substantial proprietary interest in the trade name "Premiere Communications, Inc." Premiere has expended - and continues to expend - considerable effort and financial resources to establish a clear and distinctive identity, and to maintain a strong reputation as a provider of high-quality telecommunications services. If Applicant is permitted to use the trade name "PremierCom, Inc." or another confusingly similar trade name in Florida, Premiere will lose both customer goodwill and control over its corporate reputation and identity.

8. Furthermore, allowing Applicant to offer telecommunications services under the trade name "PremierCom, Inc." or any other confusingly similar trade name would be contrary to the public interest. If Applicant is permitted to offer services similar to Premiere's under a nearly-

identical trade name, Florida customers likely would be unable to distinguish between the two service providers,¹ thus impairing such customers' ability to make accurate, informed decisions as to their long distance service provider. Specifically, such customers are likely to:

- (i) believe that Applicant's services are those of Premiere;
- (ii) believe that Applicant's services are being provided with Premiere's consent;
- (iii) believe that Applicant is affiliated with Premiere;
- (iv) be unable to determine which of the parties is providing a particular service;
and
- (v) determine with ease which of the parties should be contacted concerning problems or questions regarding a particular telecommunication's service.

9. Consequently, Premiere respectfully requests that the Commission enjoin Applicant, along with its officers, employees and agents, from using the "PremierCom, Inc." trade name or any other confusingly similar trade name in the State of Florida.

WHEREFORE, Premiere respectfully requests that the Commission:

- (i) enter an order granting this Motion and allowing Premiere to become a full party of record in the above-styled proceeding;
- (ii) enjoin Applicant and its officers, employees and agents from advertising or selling telecommunications services in Florida under a trade name which is confusingly similar to the trade name "Premiere Communications, Inc."; and
- (iii) grant Premiere any additional relief that the Commission deems just and proper.

¹Confusion resulting from Applicant's use of the trade name "PremierCom, Inc." is readily apparent: on July 12, 1998, the Commission mistakenly contacted Premiere in connection with a customer complaint against the Applicant.

Respectfully submitted this 22nd day of September, 1998.

GERRY, FRIEND & SAPRONOV, LLP



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COUNSEL FOR PREMIERE COMMUNICATIONS, INC.

CERTIFICATE OF SERVICE

I have served a copy of the foregoing Motion to Intervene and Oppose under separate cover dated September 22, 1998, by depositing a copy of same in the United States Mail, postage prepaid, addressed to all parties to this docket.

Patrick Crocker, Esq.
Early Law Firm
900 Comerica Bldg.
Kalamazoo, MI 49007-4752

PremierCom, Inc.
500 East Higgins Road
Elk Grove Village, IL 60007



CHARLES A. HUDAK, Esq.