

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: APRIL 8, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (BEDELL, K. ^{MCB/TKP} PEN ^{CB})
DIVISION OF CONSUMER AFFAIRS (DURBIN) ^{SS}
DIVISION OF COMMUNICATIONS (BIEGALSKI) ^{VB RNT}

RE: DOCKET NO. 971491-TI - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST BRITTAN COMMUNICATIONS INTERNATIONAL, INC. D/B/A BCI CORP. FOR VIOLATION OF RULE 25-4.118, FLORIDA ADMINISTRATIVE CODE, INTEREXCHANGE CARRIER SELECTION.

DOCKET NO. 990097-TI REQUEST FOR CANCELLATION OF INTEREXCHANGE TELECOMMUNICATIONS CERTIFICATE NO. 4461 BY BRITTAN COMMUNICATIONS INTERNATIONAL, INC. D/B/A BCI CORP.

AGENDA: 04/20/99 - REGULAR AGENDA - ISSUES 2 AND 3- PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\971491.RCM

CASE BACKGROUND

On August 10, 1996, the Commission granted Brittan Communications International, Inc. d/b/a BCI Corp. (BCI) Certificate Number 4461 to provide intrastate interexchange telecommunications service. BCI reported gross operating revenues of \$50,617,748 and intrastate revenues of \$1,494,534 on its Regulatory Assessment Fee Return for the period January 1, 1997, through December 31, 1997. BCI has not filed a regulatory assessment fee form for the year 1998. As a provider of

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interexchange telecommunications service in Florida, BCI is subject to the rules and regulations of this Commission.

Staff opened this docket to investigate the numerous consumer complaints of apparent unauthorized carrier changes received by the Division of Consumer Affairs. During the investigation it was discovered that staff had prior contact with BCI regarding the issue of unauthorized carrier changes.

On January 21, 1997, Quincy Telephone Company (Quincy) contacted staff regarding the large number of carrier change requests received from BCI that could not be processed due to apparent invalid information on the LOA or PIC freezes on the account. Quincy requested that it be allowed to stop processing LOAs submitted by BCI until it was determined that the carrier change requests are legitimate. Based on this information, staff mailed BCI a letter requesting a response regarding the concerns raised by Quincy. In addition, staff requested information on the marketing techniques of BCI as it related to the carrier change request process. On February 25, 1997, BCI responded to staff's request stating it has operated in compliance with the Commission's rules. BCI marketed its long distance service through the use of sweepstakes. BCI also stated that although the current display and application form was not misleading, it was in the process of being modified.

On March 10, 1997, staff mailed a letter to BCI requesting a copy of its new display and entry forms. In addition, staff requested that BCI review all of the LOAs submitted to Quincy for accuracy. On April 9, 1997, BCI responded that it had telephonically tried to contact the individuals whose names and numbers appeared on the LOAs. BCI was able to confirm with some subscribers that they did in fact sign the LOA and in doing so intended to switch to BCI's long distance service. Upon receipt of the revised display box and registration forms, it was determined that BCI was in compliance with the Commission rules. Staff then contacted Quincy and informed it that it may begin processing LOAs received from BCI.

Thereafter, on January 22, 1999, staff received a letter from BCI stating that its primary lender was foreclosing on all of the company's assets and therefore BCI would cease doing business.

Based on this information, staff believes the following recommendations are appropriate.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order BCI Corp. to show cause why it should not have Certificate Number 4461 canceled or be fined for apparent violation of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection?

RECOMMENDATION: No. (Biegalski)

STAFF ANALYSIS: On January 21, 1997, Quincy Telephone Company provided staff with a list of customers for which it had received carrier change requests. Of these customers, approximately 41 percent could not be changed due to various circumstances. Upon receipt of this information, staff sent a letter to BCI requesting an explanation of this information. BCI responded that it had telephonically tried to contact the individuals whose names and numbers appeared on the LOAs. BCI was able to confirm with some subscribers that they did in fact sign the LOA and in doing so intended to switch to BCI's long distance service.

BCI informed staff that although it believed the current LOA was not misleading, that in light of evolving state regulations, it was in the process of revising its LOA. Staff has reviewed the revised LOA entry form and does not believe it is misleading in any way. (Attachment A, Page 7) The form clearly states Long Distance Service Application in big bold letters. It is also a severable form that allows a customer to enter only the sweepstakes.

Due to the number of complaints received concerning unauthorized carrier changes related to BCI, staff contacted numerous individuals who had completed the revised form to determine if they felt they had been misled. The individuals that staff spoke to stated they had completed the form but did not realize they were authorizing a change in their long distance service. In addition, in response to the complaints filed concerning the unauthorized change of long distance service, BCI has rerated or credited charges incurred by all customers while on its service.

Based on the fact that the customers who have filed complaints against BCI for unauthorized carrier changes have been credited by BCI and switched back to their preferred carrier and that BCI's primary lender is foreclosing on all of the company's assets and therefore it would cease doing business, staff does not believe that a show cause action is necessary.

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ISSUE 2: Should the Commission grant the request for voluntary cancellation submitted by BCI?

RECOMMENDATION: No. (Biegalski)

STAFF ANALYSIS: Rule 25-24.474(2), Florida Administrative Code, Cancellation of a Certificate, states,

if a certificated company desires to cancel its certificate, it shall request cancellation from the Commission in writing and shall provide the following with its request:

- (a) statement of intent and date to pay Regulatory Assessment Fee.
- (b) statement of why the certificate is proposed to be canceled.
- (c) A statement on treatment of customer deposits and final bills.
- (d) Proof of individual customer notice regarding discontinuance of service.

Staff received a letter dated January 22, 1999 from BCI stating that its primary lender was foreclosing on its assets and therefore it would cease doing business. The Division of Administration mailed BCI its 1998 regulatory assessment fee form in December of 1998. To date, BCI has not paid the delinquent fees, including statutory penalties and interest, or filed for an extension to file the fees. In addition, BCI has not notified staff of its intentions regarding customer deposits and final bills as well as notification to customers concerning discontinuance of service. In this regard, BCI has not complied with Rule 25-24.474(2), Florida Administrative Code, and therefore, staff recommends that the request for voluntary cancellation be denied.

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ISSUE 3: Should the Commission impose a \$500 fine or cancel the interexchange telecommunications certificate of BCI for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, effective January 26, 1999?

RECOMMENDATION: Yes. The Commission should impose a \$500 fine or cancel BCI's certificate effective January 26, 1999, if the fine and the regulatory assessment fees, including statutory penalties and interest, are not received by the Commission within 5 business days after the conclusion of the 21 day protest period. The fine should be paid to the Florida Public Service Commission and forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes. If the Commission's Order is not protested and the fines and the regulatory assessment fees, including statutory penalties and interest, are not received, it should be forwarded to the Comptroller's Office for further collection and the certificate should be canceled. (Biegalski)

STAFF ANALYSIS: Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida Statutes, for any delinquent amounts.

Staff mailed BCI its 1998 regulatory assessment fee form in December of 1998. Staff verified with the Division of Administration on April 7, 1999, that BCI had not submitted the regulatory assessment fees for the year 1998, along with statutory penalties and interest charges, or filed for an extension to pay the fees. Therefore, BCI has failed to comply with Rule 25-4.0161, Florida Administrative Code.

Accordingly, staff recommends that the Commission assess a \$500 fine for failure to comply with Commission rules or cancel the interexchange telecommunications certificate effective January 26, 1999, if the fine and the regulatory assessment fees, along with statutory penalties and interest, are not paid within the specified time.

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ISSUE 4: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected files a protest within 21 days of the issuance date of the Order, the Order will become final. Upon payment of the fines and fees, or cancellation of the certificate, this docket should be closed. (Bedell)

STAFF ANALYSIS: If the Commission adopts staff's recommendation in Issues 2 and 3, then BCI will have 21 days from the issuance date of the Order to file a timely protest to the Commission's Proposed Agency Action. If no protest is filed, the docket should be closed upon payment of the fines and fees, or upon cancellation of the certificate.

LONG DISTANCE SERVICE APPLICATION

BRITAN COMMUNICATIONS INTERNATIONAL CORPORATION
BCI CORP., P.O. Box 70688, Houston, TX 77270
CALL 1-800-230-5712 for available rate plans.

FILL OUT COMPLETELY

TAKE COPY FOR YOUR RECORDS

I am of legal age. The phone number/s listed on this application are listed in my name and/or I am authorized to change the long distance service. I know that I can have separate long distance carriers, where available, for my 1+ calls made state to state, within my state (both inter & intra LATA), and internationally. I appoint BCI as my agent and ask to be placed immediately on BCI's long distance telephone service for all state to state, in-state (both inter & intra LATA), and international calling. I know my present carrier will be canceled. Changing my long distance carrier might involve a charge by my local phone company. I agree to send a copy of said charge to BCI and BCI will credit this charge after 90 days of service. By signing below, I authorize BCI Corp. to be my new long distance provider.

PRINT NAME AS LISTED IN PHONE BOOK: _____

PHONE NUMBERS: () _____

ADDRESS: _____

CITY: _____ ST.: _____ ZIP: _____

AUTHORIZED SIGNATURE: X _____

DATE: _____

BCI 1/98 © 1998, BCI Corp.

SOLICITUD PARA SERVICIO DE LARGA DISTANCIA

BRITAN COMMUNICATIONS INTERNATIONAL CORPORATION
BCI CORP., P.O. Box 70688, Houston, TX 77270
Llame al 1-800-230-5712 para averiguar planes de pago.

LLENE EL FORMULARIO COMPLETO

GUARDE UNA COPIA PARA SUS ARCHIVOS

Soy mayor de edad. El/los números de teléfono que aparece(n) en esta aplicación aparece(n) bajo mi nombre y/o estoy autorizado(a) para cambiar el servicio de larga distancia. Estoy en conocimiento de que puedo tener diferentes proveedores de larga distancia, donde estén disponibles, para mis llamadas 1+ hechas de estado a estado, dentro de mi estado (incluyendo inter e intra-LATA) e internacionales. Designo a BCI como mi agente y solicito ser incluido inmediatamente en el servicio de BCI de larga distancia para todas las llamadas de estado a estado, dentro del estado (incluyendo inter e intra-LATA) e internacionales. Sé que mi proveedor actual será cancelado. El cambio de proveedor puede significar un cargo adicional de mi compañía de teléfonos local. Estoy de acuerdo en enviar una copia de dicho cargo a BCI y que BCI me acredite este cargo después de 90 días de servicio. Con mi firma al pie de la página, autorizo a BCI Corp. para que sea mi nuevo proveedor de servicio de larga distancia.

IMPRIMA SU NOMBRE: _____

COMO APARECE EN LA GUÍA TELEFÓNICA

NÚMERO(S) DE TELÉFONO(S): () _____

DIRECCIÓN: _____

CIUDAD: _____ ESTADO: _____ CÓDIGO: _____

FIRMA AUTORIZADA: X _____ FECHA: _____

BCI 1/98 © 1998, BCI Corp.

CONTEST ENTRY FORM

You must be of legal age to enter. Only one (1) entry per family. You are not required to sign the long distance service application to enter the contest. You do not need to be present to win. Grand prize is a new Ford Mustang convertible or \$21,500 cash. Odds dependent upon number of entries. Drawings are March 31, June 30, September 30 and December 31, 1998. All taxes are the sole responsibility of the winner. Void where prohibited by law. For complete rules, write: BCI Corp., P.O. Box 70688, Houston, TX 77270.

NAME: _____

PHONE: () _____

SIGNATURE: X _____

ES ESPAÑOL AL REVÉRSO

FORMULARIO PARA ENTRAR AL SORTEO

Usted debe tener edad legal para participar. Sólo una entrada por familia. No se requiere que usted firme la solicitud para servicio de larga distancia para participar en el sorteo. No necesita estar presente para ganar. El premio mayor es un Ford Mustang convertible nuevo o \$21,500 en efectivo. Las probabilidades dependen del número de entradas. Los sorteos se realizarán el 31 de marzo, el 30 de junio, el 30 de septiembre y el 31 de diciembre de 1998. Todos los impuestos son responsabilidad exclusiva del ganador(a). Esta oferta no es válida donde lo prohíba la ley. Para obtener el reglamento completo, escriba a BCI Corp., P.O. Box 70688, Houston, TX 77270.

NOMBRE: _____

TELÉFONO #: () _____

FIRMA: X _____

EN ESPAÑOL AL REVÉRSO