

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against LCI International Telecom Corp. d/b/a Qwest Communications Services for apparent violation of Rule 25-22.032(5)(a), F.A.C., Customer Complaints.

DOCKET NO. 010198-TI

In re: Initiation of show cause proceedings against Qwest Communications Corporation for apparent violation of Rule 25-22.032(5)(a), F.A.C., Customer Complaints.

DOCKET NO. 010204-TX

In re: Initiation of show cause proceedings against Qwest Communications Corporation for apparent violation of Rules 25-4.118, F.A.C., Local, Local Toll, and Toll Provider Selection; and 25-22.032(5)(a), F.A.C., Customer Complaints.

DOCKET NO. 000778-TI
ORDER NO. PSC-01-1791-AS-TP
ISSUED: September 5, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER ACCEPTING SETTLEMENT

BY THE COMMISSION:

CASE BACKGROUND

LCI International Telecom Corp. d/b/a Qwest Communications Services (LCI), holder of Interexchange Company (IXC) Certificate No. 2300, and Qwest Communications Corporation (QCC), holder of IXC Certificate No. 3534 and Alternative Local Exchange

DOCUMENT NUMBER-DATE

11025 SEP-5 2001

FPSC-COMMISSION CLERK

Telecommunications Company (ALEC) Certificate No. 5801, are owned by parent company Qwest Communications International, Inc. (QCI). QCI requested that staff consider its offer to settle the "Customer Complaints" issue in all three dockets above as one settlement offer, and to consider its offer to settle the "Unauthorized Carrier Change" issue in Docket No. 000778-TI as a separate offer. The Commission is vested with jurisdiction over these matters pursuant to Sections 364.183, 364.285, 36.337 and 364.603, Florida Statutes.

DISCUSSION

The Division of Consumer Affairs (CAF) notified the Division of Competitive Services that it was experiencing difficulty in obtaining responses to customer complaints from telecommunications companies. Specifically, Qwest had failed to respond to a total of 23 customer complaints for its three certificates. On February 9, 2001, three dockets were opened to initiate show cause proceedings for the company's apparent violation of Rule 25-22.032(5)(a), Florida Administrative Code, Customer Complaints: Docket No. 010198-TI against LCI International Telecom Corp. d/b/a Qwest Communications Services; Docket No. 010204-TX against Qwest Communications Corporation (ALEC); and Docket No. 000778-TI against Qwest Communications Corporation (IXC), collectively referred to as "Qwest."

Qwest reviewed the consumer complaint cases associated with the show cause proceedings. In its July 9, 2001, settlement offer, Qwest explained that it had been undergoing a merger with U.S. West that strained its company resources and impacted its complaint response process. It stated that it had recently implemented changes to ensure that Qwest (and its affiliates) respond to staff in a timely fashion. It further stated that it has confirmed that responses to all of the complaints that are the subject of this issue in these dockets have been submitted to CAF. Therefore, to settle these dockets, Qwest proposed the following:

1. A monetary settlement of \$1,500 per complaint, for a total of \$34,500; and
2. To take steps to ensure the timely and consistent response to consumer complaints.

The settlement amount of \$1,500 per complaint in this recommendation is consistent with the Commission's approval of the settlement offered in Order No. PSC-00-2089-AS-TI, issued November 2, 2000, in Docket No. 000399-TI, Initiation of Show Cause Proceedings Against AT&T Communications of the Southern States, Inc. d/b/a Connect N' Save and d/b/a Lucky Dog Phone Co. and d/b/a ACC Business for Apparent Violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries. However, this settlement does not in any way preempt, preclude or resolve any matters under review by any other state agencies or departments.

Upon consideration, we accept the company's settlement proposal of a \$34,500 voluntary contribution and assurance that the company will implement measures to ensure future compliance. The voluntary contribution should be received by the Commission within ten business days of the issuance date of an Order approving the settlement offer and should include the docket numbers and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. If the company fails to pay in accordance with the terms of the Commission Order, Certificate Nos. 2300, 5801, and 3534 should be canceled administratively.

Rule 25-4.118, Florida Administrative Code, requires that a provider seeking a customer's authorization to switch his or her local, local toll or toll service to itself must first obtain a Letter of Agency (LOA) or taped Third Party Verification (TPV) containing the following information specified in Rule 25-4.118(3)(a)1.-5., Florida Administrative Code:

(3)(a) The LOA submitted to the company requesting a provider change shall include the following information (Each shall be separately stated):

1. Customer's billing name, address, and each telephone number to be changed;
2. Statement clearly identifying the certificated name of the provider and the service to which the customer wishes to subscribe, whether or not it uses the facilities of another company;

3. Statement that the person requesting the change is authorized to request the change;

4. Statement that the customer's change request will apply only to the number on the request and there must only be one presubscribed local, one presubscribed local toll, and one presubscribed toll provider for each number;

5. Statement that the LEC may charge a fee for each provider change.

When our staff reopened Docket No. 000778-TI on February 5, 2001, its initial analysis of our complaint database indicated that QCC showed an increase in the number of complaints closed as unauthorized carrier changes in the fourth quarter of 2000. Subsequent analysis of the complaints, with the associated TPVs when available, revealed a total of 22 complaints closed as unauthorized carrier changes for the period April 2000 to March 2001.

QCC's response states that of the 22 slamming complaints, four should be eliminated from further consideration. We agree with the analysis presented by QCC, that the four cases outlined in its response were not the result of QCC's actions and should be removed from consideration. Thus, QCC has 18 apparent violations of Rule 25-4.118, Florida Administrative Code, for the period April 2000 to March 2001.

In its settlement offer, Qwest notes that fourteen of the complaints involve the omission of one or more of the elements required by Rule 25-4.118(3)(a)1.-5., Florida Administrative Code, but that it believes the customer clearly wanted to change his or her IXC service to QCC. Of the remaining four, one involved a keypunch error, and QCC was unable to locate the TPV or LOA for the last three. To settle the unauthorized provider change issue in this docket, QCC proposes the following:

1. A voluntary contribution of \$18,000; and
2. To take measures to ensure that all of the information required by Rule 25-4.118(3)(a)1.-5.,

Florida Administrative Code, are captured on its
TPVs.

We believe the proposed settlement amount of \$18,000 is fair and reasonable given the nature of the majority of the slamming complaints against QCC. Our staff's investigations show that, though still deficient in some areas, the level of compliance of the TPVs from the period April 2000 to March 2001 has improved over those of the previous study period, December 1998 to March 2000. However, this settlement does not in any way preempt, preclude or resolve any matters under review by any other state agencies or departments.

Therefore, we accept Qwest's settlement proposal. Any contribution should be received by the Commission within ten business days from the issuance date of the Commission Order and should identify the docket number and company name. The Commission should forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. If the company fails to pay in accordance with the terms of the Commission Order, Certificate No. 3534 should be canceled administratively.

Based on the foregoing it is

ORDERED by the Florida Public Service Commission that LCI International Telecom Corp. d/b/a Qwest Communications Services and Qwest Communications Corporation's settlement proposal regarding customer complaints set forth in the body of this Order is hereby approved. It is further

ORDERED that Dockets Nos. 010198-TP and 010204-TP shall remain open pending receipt of the \$34,500 contribution. The contribution will be transmitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

ORDERED that Docket 000778-TP shall remain open pending receipt of the \$18,000 contribution. The contribution will be transmitted to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund. It is further

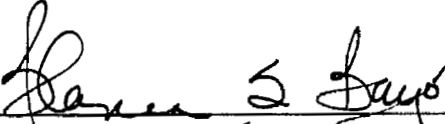
ORDERED that if LCI International Telecom Corp. d/b/a Qwest Communications Services and Qwest Communications Corporation fail

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to comply with this Order, certificates nos. 2300, 3534 and 5801 will be canceled administratively. It is further

ORDERED that upon receipt of the \$34,500 contribution, or cancellation of the certificates, Dockets Nos. 010198-TP and 010204-TP shall be closed. Upon receipt of the \$18,000 contribution, or cancellation of the certificate, Docket No. 000778-TP shall be closed.

By ORDER of the Florida Public Service Commission this 5th Day of September, 2001.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

JAE/WDK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.