

MEMORANDUM

October <sup>9</sup>~~8~~, 1998

ADMINISTRATIVE

OCT-9 AM 9:58

RECORDS AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BEDELL) *CB MCB*

RE: DOCKET NO. 971487 TI -Initiation of show cause proceedings against LCI International Telecom Corp. For violation of Rule 25-4.118, F.A.C., Interexchange Carrier Selection.

PSC-98-1318-AS-TI

Attached is an ORDER APPROVING OFFER OF SETTLEMENT AND DISPOSING OF PENDING MOTIONS, with attachment, to be issued in the above-referenced docket. (Number of pages in order - 6)

**ATTACHMENT(S) NOT ON-LINE**

CB/slh  
Attachment  
cc: Division of Communications  
I:971487OR.CB

*See 1*

*Mailed 10/14/98  
Sent to MFR*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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  
ORDER NO. PSC-98-1318-AS-TI  
ISSUED: October 9, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

ORDER APPROVING OFFER OF SETTLEMENT  
AND DISPOSING OF PENDING MOTIONS

BY THE COMMISSION:

BACKGROUND

On July 21, 1989, this Commission granted LCI International Telecom Corp. (LCI) Certificate Number 2300 to provide intrastate interexchange telecommunications service. LCI reported gross operating revenues of \$41,174,735 on its Regulatory Assessment Fee Return for the period January 1, 1997, through December 31, 1997. As a provider of interexchange telecommunications service in Florida, LCI is subject to the rules and regulations of this Commission.

On April 23, 1998, by Order No. PSC-98-0566-SC-TI, in Docket No. 971487-TI, the Commission ordered LCI to show cause in writing within 20 days of the effective date of the Order why it should not be fined \$710,000 for its apparent violations of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection.

DOCUMENT NUMBER DATE

11142 OCT-98

FPS TELE REPORTING

SETTLEMENT

On June 26, 1998, after extensive settlement negotiations, LCI submitted an offer to settle, which is attached and incorporated herein as Attachment A. In its settlement offer LCI agrees to the following:

- (1) LCI will require each individual employee of the marketing agent to execute an acknowledgment form stating that the employee understands and accepts LCI's policy prohibiting submission of carrier changes without proper authorization.
- (2) LCI will perform validity checks on LOAs submitted by the marketing agents to verify the accuracy of state, zip code, and area code information.
- (3) LCI 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. LCI will commence verification 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.
- (4) Upon confirmation that any representative of a distributor has forged the signature of a purported new customer on a LOA, LCI will disclose to the appropriate law enforcement official the name of the representative for investigation and for action warranted by the circumstances.
- (5) For a period of twelve months following the date the order approving this offer of settlement becomes final, a representative of LCI will hold a monthly conference call with the Commission staff 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) Without conceding that it has committed any violation within the purview and meaning of Section 364.285, Florida Statutes, LCI will make a voluntary contribution of \$110,000 to the General Revenue Fund within 15 days of the date this Order becomes final.

We believe LCI's proposal to have individual employees of the distributorship sign the acknowledgment form regarding LCI's slamming policy will make employees more aware of the necessity to obtain proper authorization on LOAs. We also believe that LCI's proposal to verify the accuracy of the information on the LOA by verifying the state, zip code and area code information will reduce the occurrence of incorrect addresses on LOAs. Further, LCI's proposal to verify all LOAs submitted in Florida prior to sending them to the LEC for processing will ensure that the customer who is switched wanted LCI's service. We also approve of LCI's proposal to provide the Commission with a more detailed description of its investigations in response to complaint inquiries.

Therefore, we find the terms of the settlement agreement to be fair and reasonable. Accordingly, the offer of settlement filed by LCI on June 26, 1998, is approved.

#### MOTIONS

The following outstanding motions are rendered moot by our approving LCI's settlement offer: (1) First Motion to Compel filed on January 21, 1998, by Office of Public Counsel and (2) Motion for Oral Argument On Motion to Compel filed on February 4, 1998, by LCI. Similarly, LCI's Motion for a More Definite Statement and the accompanying Motion for Oral Argument filed May 13, 1998, are also moot as a result of the settlement. LCI's Motion to Hold Proceedings in Abeyance, filed May 14, 1998, is hereby granted.

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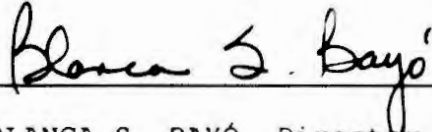
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the June 26, 1998, Offer of Settlement by LCI International Telecom Corp. is hereby approved. It is further

ORDERED that LCI International Telecom Corp. shall remit \$110,000 within fifteen days of this Order becoming final. Upon remittance, the \$110,000 voluntary contribution shall be forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes, and this docket may be closed administratively. It is further

ORDERED that LCI International Telecom Corp.'s Motion to Hold Proceedings in Abeyance is hereby granted.

By ORDER of the Florida Public Service Commission this 9th day of October, 1998.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

CB

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.

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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 Records and Reporting, 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 Records and reporting 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.

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**ATTACHMENT A**

LAW OFFICES

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PLEASE REPLY TO:  
TALLAHASSEE

TALLAHASSEE OFFICE  
117 S. GADSDEN  
TALLAHASSEE, FLORIDA 32301  
TELEPHONE (850) 222-2525  
FAX (850) 222-6006

June 26, 1998

**VIA HAND DELIVERY**

Martha Carter Brown  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 390-M  
Tallahassee, Florida 32399-0850

Catherine Bedell  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 335E-1  
Tallahassee, Florida 32399-0850

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 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.

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LEGAL DIV

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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.



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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 revised the original offer of settlement on May 14, 1998. The purpose of this letter is to clarify certain elements of the May 14 settlement offer and to modify others, in light of discussions between Staff and representatives of LCI following the May 14 letter. The full proposal 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 384.285, 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 this 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. The verification will be accomplished by LCI personnel, who will contact each customer from whom LCI receives an LOA to confirm the customer's intent to change to LCI's service before submitting that customer's LOA to the LEC.

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. In the order approving this offer of settlement and closing the consolidated dockets, there will be no findings with respect to any of the allegations pending in Docket Nos. 972403-TI and 971487-TI, and no adjudication that LCI violated any provisions of any rule, order, or statute. This offer of settlement is contingent on the Commission accepting the offer on that basis.

8. No complaint or allegation of an unauthorized carrier change that has been received by the Commission on or before March 26, 1998, shall serve as the basis for an enforcement action against LCI; further, no complaint received subsequent to that date that is related to activities conducted by the three distributors who have been terminated by LCI (Sponsorop, Fifth Coast Marketing, and South Asian Media Wise) prior to their termination will form the basis for future punitive action against LCI.

9. 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 \$110,000 to the General Fund within 15 days of the date an order approving this offer of settlement becomes final and effective and not subject to appeal.

10. 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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**ATTACHMENT A**

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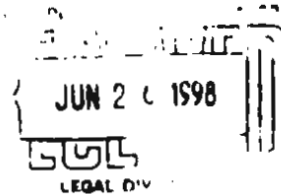
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LCI is available to meet with Staff if Staff wishes to discuss this proposal, or if Staff has any questions regarding any of its provisions.

Yours truly,



Joseph A. McGlothlin



JAM/jg

cc: Charles Beck  
Michael Gross  
Douglas Kinkoph