

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, for)
BRITTAN COMMUNICATIONS INTERNATIONAL)
CORP. to show cause why it has not violated)
Section 505 of the Michigan Telecommunications Act.)
_____)

Case No. U-11919

At the April 30, 1999 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. David A. Svanda, Commissioner

ORDER

On July 16, 1998, Governor John Engler signed into law Public Acts 259 and 260 of 1998 amending the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2101 et seq.; MSA 22.1469(101) et seq. (the MTA). The amendments prohibit a telecommunications provider from switching an end user to another provider without the authorization of the end user. Those amendments further provide certain penalties and remedies in the event a provider violates the law.

On September 23, 1998, the Commission issued an order in Case No. U-11757 establishing the procedures under which the Commission will administer the new acts. Among other things, the Commission's "Procedures for Changing Telecommunications Service Providers" establish the following:

Section 3. Violation of PIC or LEC Change Verification Procedures.

(a) No telecommunications service provider shall submit, or execute on its own behalf, a change in a customer's selection of a service provider except in accordance with the verification procedures prescribed in Section 505 of [the Act], MCL 484.2505; MSA 22.1469(505) and as further defined in these rules or Commission orders pursuant to Section 505.

(b) Any individual, corporation, partnership, association, governmental entity, or other legal entity, including the Commission, having knowledge of a violation of paragraph (a) of this section may initiate an action against a telecommunications service provider for failure to adhere to the PIC or LEC change verification procedures prescribed in Section 505 of the Act. Any such action will be treated as a complaint case under Section 203 of the Act, MCL 484.2203; MSA 22.1469(203), and will be processed in accordance with the Administrative Procedures Act and the Commission's Rules of Practice and Procedure.

Exhibit A, September 23, 1998 order, Case No. U-11757, (emphasis added).

The Commission issued a show cause order on February 26, 1999 in this proceeding ordering Brittan Communications International Corp. (BCI) to respond within 21 days by submitting proofs supporting the change in providers identified on Exhibit A of the order. BCI was also ordered to show cause why the switches identified in the order were not in violation of the MTA and the Commission's September 23, 1998 order in Case No. U-11757.

BCI has not responded to the Commission's show cause order. The Commission Staff (Staff) has made numerous attempts to contact BCI. During the course of the Staff's research, the Staff has determined that BCI is out of business and has filed for bankruptcy. On October 29, 1998, the Federal Communications Commission (FCC) issued a Notice of Apparent Liability for Forfeiture and initiated enforcement action against BCI. The FCC found that BCI was liable for a forfeiture in the amount of \$1,120,000. On March 15, 1999, the FCC issued an order granting another carrier the authority to serve as the preferred carrier for the consumers currently presubscribed to BCI.

Because BCI has not responded to the Commission's show cause order, the Commission finds that BCI is in violation of the order. BCI has not provided the necessary proofs that the

telecommunications provider switches associated with those persons identified on Exhibit A of the order were processed in a manner consistent with the MTA and the procedures established in Case No. U-11757. The Commission also finds that BCI has violated the MTA and the procedures established in Case No. U-11757.

The MTA allows a fine to be imposed for the first offense of not less than \$10,000 nor more than \$20,000. For a second and any subsequent offense, the Commission shall order a fine of not less than \$25,000 nor more than \$40,000. The MTA also states that each switch made in violation of Section 505 is a separate offense. BCI was served with a list of 33 instances of unauthorized switches. Therefore, the Commission imposes a fine of \$660,000 for these offenses. The Commission recognizes that this company is not in business any longer. Nevertheless, the Commission wants to use this opportunity to emphasize that slamming will not be tolerated in Michigan and that any company engaging in this type of activity will be subject to penalties under the law. The Commission also finds that this company and its directors, officers, principals, and agents should not be allowed to engage in the telecommunications business in this state in the future until the fine has been paid.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACRS, R 460.17101 et seq.
- b. BCI has not responded to the Commission's show cause order.

c. BCI has violated the MTA and the procedures for changing telecommunications providers established in Case No. U-11757.

THEREFORE, IT IS ORDERED that:

A. Brittan Communications International Corp. shall pay a fine of \$660,000 for violations of the Michigan Telecommunications Act and the procedures established in the September 23, 1998 order in Case No. U-11757.

B. Brittan Communications International Corp. and its directors, officers, principals, and agents shall not engage in the telecommunications business in the state of Michigan until the fine has been paid.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

By its action of April 30, 1999.

/s/ Dorothy Wideman
Its Executive Secretary

c. BCI has violated the MTA and the procedures for changing telecommunications providers established in Case No. U-11757.

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Suggested Minute:

“Adopt and issue order dated April 30, 1999 finding Brittan Communications International Corp. to be in violation of Section 505 of the Michigan Telecommunications Act and imposing a fine, as set forth in the order.”