

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)	
for TITAN TELECOMMUNICATIONS, INC. ,)	
and Christopher Bucci, its president, to show cause)	Case No. U-12400
why they are not in violation of Section 505 of the)	
Michigan Telecommunications Act and the Commis-)	
sion’s orders in Cases Nos. U-11900 and U-11917.)	
_____)	

At the December 20, 2000 meeting of the Michigan Public Service Commission in Lansing, Michigan.

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

OPINION AND ORDER

In an April 30, 1999 order in Case No. U-11917, the Commission fined ACI Communications, Inc., (ACI) \$940,000 for failing to provide proof that 41 telecommunications provider switches identified in the February 26, 1999 order in that proceeding were processed in a manner consistent with the MTA. The order also provided that ACI 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.” April 30, 1999 order, Case No. U-11917, p. 4. To date, no one has come forward to pay the fine imposed by that order.

On May 3, 2000, the Commission ordered Christopher Bucci, the former president of ACI, and Titan Telecommunications, Inc., (Titan), a new provider of intrastate telecommunications

services that Mr. Bucci registered with the Commission in accordance with the requirements of the January 10, 2000 order in Case No. U-11900, to show cause why they should not be found to be in violation of the Michigan Telecommunications Act (MTA), MCL 484.2101 et seq.; MSA 22.1469(101) et seq., the registration procedures adopted in Case No. U-11900, and the Commission's April 30, 1999 order in Case No. U-11917. The Commission was concerned that Mr. Bucci's participation in the registration of Titan would be a violation of the Commission's order in Case No. U-11917 because the fine had not been paid. Titan's compliance with the registration requirements of the January 10, 2000 order in Case No. U-11900 was also questioned.

On May 22, 2000, a response was filed on behalf of Titan and Mr. Bucci. Although acknowledging Mr. Bucci's past relationship with ACI and his current involvement with Titan, it was their position that Mr. Bucci was unaware of any investigation by the State of Michigan regarding allegations of slamming by ACI. Further, they maintained that Titan does not condone slamming and has implemented procedures to ensure that slamming will not occur in the future. Accordingly, they insisted that there is no indication that Titan has violated the MTA in any regard and that Titan's officers and other principals, including Mr. Bucci, have not committed fraud on the public. Therefore, they argued that Titan should not be held responsible for the failure on the part of the appointed receivers for ACI to deal with the allegations of slamming considered in Case No. U-11917.

After considering the merits of the May 22, 2000 response, the Commission found that Titan and Mr. Bucci had not persuaded the Commission to terminate its inquiry because an examination of the documents submitted by Titan and Mr. Bucci clearly indicated that 17 of the 41 slamming

violations alleged to have been committed by ACI occurred prior to the date that Titan and Mr. Bucci contended ACI ceased operations. Further, the Commission noted that all of the other 24 instances of slamming had been reported to the Commission prior to the date that Mr. Bucci resigned as president of ACI. Moreover, the Commission observed that the document cited as evidence that Mr. Bucci had resigned from ACI itself indicated that the Board of Directors of ACI had authorized Mr. Bucci's continued involvement with ACI.

Given these circumstances, in an August 31, 2000 order in this proceeding, the Commission commenced a contested case proceeding to determine whether Titan and Mr. Bucci had violated Section 505 of the MTA and the Commission's orders in Cases Nos. U-11900 and U-11917. The Commission also indicated that it would consider whether Titan's registration as an intrastate telecommunications services provider should be revoked. Finally, the August 31, 2000 order, which was served on both Titan and Mr. Bucci, specifically ordered Titan and Mr. Bucci to appear at a hearing to be conducted on October 4, 2000.

At the appointed date and time, Administrative Law Judge James N. Rigas (ALJ) conducted an evidentiary hearing that was attended by the Commission Staff (Staff). Titan and Mr. Bucci did not appear at the hearing, and offered no explanation for their failure to do so.

During the hearing, the ALJ heard the testimony of one witness and received two exhibits into evidence. At the conclusion of the evidentiary hearing, the ALJ issued an oral Proposal for Decision (PFD) recommending that Titan's registration as an intrastate telecommunications provider pursuant to the registration requirements approved in Case No. U-11900, should be revoked. Titan and Mr. Bucci failed to file exceptions to the PFD.

The Commission finds that the ALJ's recommendations are supported by the record and should be adopted. The Commission also concludes that Titan's registration as an intrastate provider of telecommunications services should be revoked. Although the Commission has repeatedly found that intrastate telecommunications competition can be beneficial to the citizens of this state, the Commission cannot countenance the flaunting of Commission orders and requirements by providers or the principals of those providers.

Pursuant to the procedures for changing telecommunications service providers that were approved by the Commission's January 10, 2000 order in Case No. U-11900, revocation of Titan's registration as a telecommunications service provider has several important consequences. First, according to Section 5(e) of the Case No. U-11900 procedures, local exchange carriers operating in Michigan will no longer be permitted to record Titan as any customer's presubscribed carrier. Second, according to Section 6(e) of the procedures, a telecommunications service provider cannot serve as a billing agent or provide bill collection services for Titan. For these reasons, Titan should be ordered to notify all of its Michigan customers that its registration as an intrastate provider of telecommunications services has been revoked. Further, Titan should be required to provide all of its Michigan customers with a reasonable amount of time to switch to a registered provider.

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 AACCS, R 460.17101 et seq.

b. The findings and recommendations made by the ALJ should be adopted.

c. Titan's registration as an intrastate provider of telecommunications services pursuant to the requirements of the Commission's January 10, 2000 order in Case No. U-11900 should be revoked.

d. Titan should be ordered to notify all of its Michigan customers that its registration as an intrastate provider of telecommunications services has been revoked.

e. Titan should be required to provide all of its Michigan customers with a reasonable amount of time to switch to a registered provider.

THEREFORE, IT IS ORDERED that:

A. The findings and recommendations made by Administrative Law Judge James N. Rigas are adopted.

B. Titan Telecommunications, Inc.'s registration as an intrastate provider of telecommunications services is revoked.

C. Within 10 days from the date of this order, Titan Telecommunications, Inc., shall notify all of its Michigan customers that its registration as an intrastate provider of telecommunications services has been revoked by the Commission.

D. Following the notification required by paragraph C of this order, Titan Telecommunications, Inc., shall continue to provide service to its Michigan customers to allow them a reasonable

amount of time to arrange to switch their service to a registered provider. However, under no circumstances shall the time provided for the Michigan customers of Titan Telecommunications, Inc., to obtain service from another provider extend beyond 30 days from the date of this order.

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

/s/ Robert B. Nelson
Commissioner

By its action of December 20, 2000.

/s/ Dorothy Wideman
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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By its action of December 20, 2000.

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sion's orders in Cases Nos. U-11900 and U-11917.)
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Case No. U-12400

Suggested Minute:

“Adopt and issue order dated December 20, 2000 finding that Titan Telecommunications, Inc., and Christopher Bucci, its president, failed to show cause why they are not in violation of Section 505 of the Michigan Telecommunications Act and the Commission's orders in Cases Nos. U-11900 and U-11917, and ordering that Titan's registration as an intrastate provider of telecommunications services pursuant to the requirements of the Commission's January 10, 2000 order in Case No. U-11900 should be revoked, as set forth in the order.”