



October 11, 2022

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Mr. Steve Kahl, Executive Director
North Dakota Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

NORTH DAKOTA
PUBLIC SERVICE COMMISSION

RE: Information Complaint against Bright Sound Communications, Inc.

Dear Mr. Kahl:

Northwest Communications Cooperative ("NCC") provides this letter to the North Dakota Public Service Commission (Commission) pursuant to Section 69-02-02-1 of its administrative rules to present an "Informal Complaint" against Bright Sound Communications, Inc., (Bright Sound) a Florida corporation registered to do business with the North Dakota Secretary of State's Office (Company Number P2000009229) and registered with the PSC as a provider of "Long Distance Service". NCC as a local exchange carrier, competitive local exchange carrier and internet service company provides various telephone and broadband related services to customers within its service area footprint. These services include long distance voice services and NCC serves as the preferred or "presubscribed interexchange carrier" ("PIC") for a good number of its customers.

NCC submits this complaint due to the past several months, beginning in April of this year and continuing more recently into the month of August, multiple business customers "PIC'd" to NCC's long distance (LD) services were improperly switched to Bright Sound Communication's LD service based on false and/or misleading statements made by Bright Sound employees and/or agents. Specifically, these customers called NCC's customer service expressing concern that they had switched or may have switched their preferred long distance service to Bright Sound in error after being told on sales calls initiated by Bright Sound that Bright Sound was either affiliated with or "calling on behalf" of NCC and needing them to change their long distance PIC. These and similar statements made by Bright Sound representatives are completely false. NCC has no affiliation with and has given no authorization to Bright Sound to reference NCC in its long distance marketing efforts. NCC believes the statements were made to improperly entice customers into changing their PIC'd long distance away from NCC to Bright Sound's LD service. Further, as to the affected customers, NCC has also received information indicating that after being switched without proper authorization, certain customers have encountered service outages, being left without a usable preferred/primary long distance service. This includes interrupted service to one of the K-12 schools located within NCC's service area.

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Northwest Communications Cooperative, a Cooperative Association
Jeremy Becker, NCC General Manager/CEO

After hearing complaints from customers concerning these Bright Sound sales calls, NCC sent email correspondence to Bright Sound. NCC informed Bright Sound that it was aware of the improper use of its company name during sales calls made to NCC LD customers and requested that Bright Sound immediately stop falsely representing during sales calls that such calls are being made “on behalf of NCC”. This correspondence also noted that if such activity by Bright Sound was not stopped, NCC would be contacting the state attorney general and be filing a complaint against the company. The following brief email response was received by NCC on May 25, 2022 from an individual identifying herself as “Mary” with Bright Sound’s “Customer Service”:

“Thank you for notifying us. On behalf of Bright Sound, please accept my apologies. This is not an approved method of marketing and our marketing department is investigating this incident. As we outsource most of our marketing, all ND marketing has been stopped immediately until we can identify the marketing source and the individual responsible to ensure this does not happen again.”

Despite these brief, but clear assurances, to NCC’s knowledge Bright Sound neither stopped marketing in the State nor taken adequate action to prevent further misrepresentations or false statements by its sales personnel purporting to represent NCC. More than two months later, on August 12th, NCC was again contacted by one of its long distance customers and told that they had been contacted by Bright Sound representative saying that they were calling “on behalf of NCC” and seeking a change to their pre-subscribed long distance service.

It appears to NCC that Bright Sound is still engaged in its improper customer “Slamming” activity based not only on this more recent customer complaint, but also based on information received from other rural telecommunications company members of the Broadband Association of North Dakota (“BAND”) regarding Bright Sound marketing activities within their service areas. These other BAND members, include RTC Networks, West River Telecommunications Cooperative, SRT, Red River Communications, and United and Turtle Mountain Communications. All have received reports from customers indicating they were contacted by Bright Sound and given false information leading to an unintended switch of their PIC’d long distance service.

Given the foregoing, NCC asks that the Commission immediately investigate Bright Sound under the federal and state statutes and rules addressing illegal “Slamming” activity as it concerns telecommunications services. North Dakota Century Code §49-21-02.4 provides specifically that telecommunications companies shall comply with the provisions in 47 CFR Part 64, subpart K “regarding changes in a subscriber’s selection of a provider of telecommunications service.” These federal regulations

notably include the following language as it relates to the improper actions of Bright Sound described in this letter:

Section 64.1120 – Verification of orders for telecommunications service.
No telecommunications carrier shall submit or execute a change on the behalf of a subscriber in the subscriber's selection of a provider of telecommunications service except in accordance with the procedures prescribed in this subpart. . . . Nothing in this section shall preclude any State commission from enforcing these procedures with respect to intrastate services. . . . [And] Material misrepresentation on the sales call is prohibited. Upon a consumer's credible allegation of a sales call misrepresentation, the burden of proof shifts to the carrier making the sales call to provide persuasive evidence to rebut the claim. Upon a finding that such a material misrepresentation has occurred on a sales call, the subscriber's authorization to switch carriers will be deemed invalid.

In addition, NCC asks the Commission to exercise its authority under North Dakota Century Code §49-21-02.4.3 and issue a cease and desist order against Bright Sound, preventing the company from engaging in any further marketing and/or sales of its long distance services in North Dakota until after the Commission's investigation into these matters has concluded and the Commission is satisfied that the company has a willingness and ability to comply with the state and federal laws prohibiting unauthorized telecommunications service changes.

If upon review of this letter the Commission would like more information concerning the specifics of our communications with customers as it relates to Bright Sound, NCC is ready to assist in any way we can.

Thank you for your attention to these matters.

Respectfully submitted,



Jeremy Becker
NCC General Manager/CEO