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Mr. Victor Schock
Director of Public Utilities
North Dakota Public Service Commission
600 E. Boulevard Ave., Dept 408
Bismarck, ND 58505-0480

**NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**RE: Bright Sound Communications, Inc.
Case No. PU-22-393**

Dear Director Schock,

Please accept the following response of Bright Sound Communications, Inc. to the Cease-and-Desist Order from the North Dakota Commission along with BSCI's proposed resolution of this matter.

Bright Sound Communications, Inc. ("BSCI") is a provider of intrastate and interstate long distance telecommunications services ("Services") and is licensed to provide these services in the State of North Dakota.¹

BSCI marketed its Services in North Dakota through the use of a third-party telemarketing company and followed the Federal Communications Commission's ("FCC") regulations and guidelines regarding sales script contents, independent third-party verification, and monitoring of sales calls.

BSCI began marketing its services in 2022. In late May 2022, BSCI was contacted by Northwest Communications Cooperative ("NCC") wherein they brought to BSCI's attention the issue of inappropriate marketing being utilized to market BSCI's Services. BSCI began an investigation of the activities of its marketing vendor.

BSCI began its investigation by reviewing third-party verifications it received from its verification vendor to confirm a customer's authorization to transfer service request was valid and the recordings of the verifications did not indicate any issues. The third-party verifications were examined by BSCI and appeared appropriate. The verifications showed no hesitation or clarifying questions in the customers' responses to the verifier's questions, the verifier's information concerning the customer was accurate and nothing misleading could be detected. Following an examination of the verifications, BSCI began to randomly listen to sales calls being made by its third-party marketing company and they did not initially appear to deviate from the approved marketing script.

¹ BSCI received its IXC registration on July 12, 2021.

However, in late July and early August 2022, BSCI began detecting deviations from the approved sales script. Not all sales listened to deviated from the script. At first the deviations appeared random (i.e., a mistake). However, the mistakes became more frequent and similar in nature. When BSCI's third-party marketing company could not adequately explain the deviations and would not certify the sales calls made in North Dakota, BSCI notified its vendor it was canceling its contract for service.² BSCI did not authorize any further marketing in North Dakota effective August 15, 2022, which was prior to the Commission's Cease-and-Desist Notice.

After August 15, 2022, communications did occur between BSCI and the 26 customers/consumers contained in BSCI's discovery responses. However, those communications were not new sales calls. The communications involved matters related to sales made prior to August 15, 2022. Specifically, if a TCIS code was received identifying a name/number mismatch or an address error, calls were made to the consumer to resolve any errors. These calls could have been interpreted as a sales call. However, the calls were simply a follow-up to correct consumer contact or information errors. Further, if no usage was detected on supposedly PICed lines, calls were made to consumers to determine if the consumer was experiencing any difficulty in switching their service. Again, these calls were follow-up calls made to consumers BSCI believed were its customers. If any sales were presented by the marketing company to BSCI following BSCI's termination notice, BSCI rejected these orders, and no actions were taken in connection with fulfilling any such order.

BSCI believes the investigation it undertook upon discovery of these issues was both appropriate and thorough and the actions it took in terminating its marketing company and ceasing further sales in North Dakota was in line with Commission directives.

In furtherance of the Cease-and-Desist Order and a call with the Commission's staff, BSCI would like to submit the attached proposed resolution of violation for the Commission's consideration.

Should you have any questions or require further clarification, please do not hesitate to contact me at the above address or telephone number.

Sincerely,



Leon L. Nowalsky
Nowalsky & Gothard, APLLC
Email: lnowalsky@nbglaw.com

Encl.
cc: Maria Hansen

² A copy of BSCI's emailed notification of cancellation of service to its marketing vendor has been attached as Exhibit I.

Proposed Resolution of Violations

As BSCI previously set forth in its discovery responses to the North Dakota Public Service Commission (“Commission”) a total of 26 consumers in North Dakota were inconvenienced due to the actions of BSCI’s vendor. Of that 26 customers, 16 customers had their choice of primary interexchange carrier changed (“PIC Change”) and the remaining 10 customers, although did not experience a PIC Change, did receive invoices from BSCI. The explanation of the differences in the two (2) customer groups was explained in detail in BSCI’s discovery responses and primarily resulted from delays in receipt of TCIs codes.

To resolve this matter with the Commission, BSCI proposes the following:

1. With respect to the 16 customers whose PIC was changed, BSCI proposes to issue credits to these customers for amounts paid by them to BSCI. In addition, BSCI, at no cost to the customer, will work with the customer’s previous carrier to make certain the customer’s choice of service provider is properly reflected and implemented.
2. With respect to the remaining 10 customers, since these consumers never had their service re-PICed, transferring them back to their previous carrier is unnecessary. However, if any of these consumers received and paid an invoice from BSCI, BSCI will refund the payment to the consumer. If the consumer did not pay an invoice, BSCI will issue a credit to the consumer for any outstanding invoiced amounts.
3. If any of the 16 customers have been utilizing and paying for BSCI’s services and these customers have not otherwise objected to the transfer of their PIC Change choice, BSCI will contact the customers, notify the customers that BSCI intends to cease providing interexchange services in North Dakota and inform the customer to select an alternative service provider. With the permission of the Commission, BSCI will continue servicing these customers until their service has been transferred in order to avoid any service interruptions.
4. BSCI will voluntarily withdraw its license to provide long distance service in the state of North Dakota. The withdrawal will be done without prejudice. However, BSCI will agree that for a period of three (3) years from its withdrawal, BSCI will not seek to apply for a service license in North Dakota. When and if it seeks to once again provide service in North Dakota, it shall make a full disclosure of any regulatory issues it may have incurred with any other state regulatory authorities and the Commission shall not be obligated to approve BSCI’s request for a license.

EXHIBIT I

Notice of Cancellation of Marketing Service

From: **Maria Hansen** <maria@brightsound.net>
Date: Mon, Aug 15, 2022 at 11:52 AM
Subject: Re: Bright Sound - ND Marketing/Formal Compliant
To: [REDACTED]
Cc: [REDACTED]

Hello,

All marketing is to be stopped in North Dakota immediately. "Calling on behalf of..." any other company besides Bright Sound Communications, Inc is to be stopped immediately.

Again, we have received a complaint from NCC regarding your reps calling on behalf of NCC. They are calling on behalf of Bright Sound Communications, Inc. We are not affiliated with or associated with another company. **This has to stop.**

I have included a portion of the complaint email: *You will need to stop referring to NCC or Northwest Communications in any of your marketing efforts and calls to potential customers. Please inform your staff - we will not tolerate the behavior. The most recent conversation we were given information for said that a Robert with Bright Sound Communications was calling on behalf of NCC. This type of business activity is dishonest Our attorney has been notified and legal action will be taken, if needed.*

I will not tolerate this. It is deceptive marketing that has legal ramifications.

Maria Hansen