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June 23, 2004

FILED²
JUN 23 2004
Missouri Public
Service Commission

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102-0360

Re: BCGI Communications Corp.; TC-2004-0317

Dear Judge Roberts:

Please find the original and eight copies of a Motion to Set Aside Order Granting Default Order and Granting Leave to File Answer for filing in the above matter.

Thank you very much for your attention to this matter.

Sincerely,

NEWMAN, COMLEY & RUTH P.C.

By:



Cathleen A. Martin
cmartin@ncrpc.com

CAM:clf

Enclosures

cc: Office of Public Counsel
David Meyer
Brian McDermott
Timothy Bass

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

FILED²

JUN 23 2004

**Missouri Public
Service Commission**

The Staff of the Missouri Public Service
Commission,)

Complainant,)

Case No. TC-2004-0317

v.)

BCGI Communications Corp.,)

Respondent.)

**MOTION FOR ORDER SETTING ASIDE DEFAULT ORDER AND
GRANTING LEAVE TO FILE ANSWER**

COMES NOW BCGI Communications Corp. ("BCGI"), by and through counsel, and respectfully requests that the Commission set aside its Order Granting Default and Canceling Certificate which was issued by the Commission on June 17, 2004. In support thereof, BCGI states the following to the Commission:

1. The Commission granted BCGI a Certificate of Service Authority to provide interexchange telecommunications services in the State of Missouri on February 9, 2000 and approved its tariff related to providing service under such certificate.

2. BCGI has never had any Missouri customers, never provided service in Missouri and never utilized its certificate in Missouri.

3. On January 29, 2004, the Staff of the Commission filed a complaint against BCGI alleging that BCGI did not file its 2002 annual report and requesting authority to bring a penalty action in circuit court against BCGI for its failure to file its annual report.

4. On February 4, 2004, the Commission issued a Notice of Complaint ("Notice") to inform BCGI of staff's complaint.

5. Upon learning of the staff's complaint, BCGI filed its annual reports for 2002 and 2003 and asked the staff to cancel its certificate.

6. On February 9, 2004, staff communicated to BCGI that staff would be filing a motion to dismiss this case and to cancel BCGI's certificate and tariff if its annual filings were acceptable.

7. On February 18, 2004, staff filed a motion to cancel BCGI's certificate and tariff and requesting that the Commission close this case.

8. BCGI did not secure counsel or file a formal answer to the staff's complaint prior to March 6, 2004, because the company believed that its actions in paragraph 5 herein and its interactions with staff that no further response to the complaint was required on behalf of BCGI to protect its interests.

9. BCGI has just secured the undersigned counsel to defend it in this complaint proceeding and to respond to the Commission's default order.

10. The Commission has the ability to set aside its default order from June 17, 2004 in this matter as such order does not become effective until June 27, 2004, and this motion is filed within seven days of the date of its issuance.

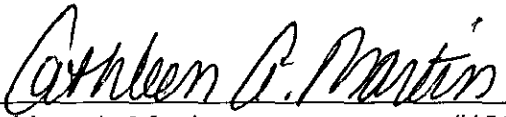
11. Setting aside the default order and allowing BCGI to defend itself in this complaint proceeding would not be detrimental to the public interest. BCGI's delay in responding to the complaint was not intentional or the result of willful disobedience to a Commission rule. Furthermore, BCGI's failure to respond to the complaint was based on staff's request that this case be closed. Thus, setting aside the default order would be just and proper under the circumstances.

WHEREFORE, BCGI Communications Corp. requests that the Commission set aside its Order Granting Default and Canceling Certificate issued on June 17, 2004; grant BCGI at least twenty (20) days from the date of such order to file an answer to Staff's Complaint in this matter and for such other and further relief as the Commission deems just and proper.

Respectfully submitted,

NEWMAN, COMLEY & RUTH P.C.

By:


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Attorneys for Respondent

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was hand-delivered, to Commission Staff, c/o David Meyer, Governor Office Building, 200 Madison Street, Jefferson City, MO 65102, and the Office of Public Counsel, c/o John Coffman, Governor Office Building, 200 Madison Street, Suite 640, Jefferson City, Missouri 65102 at on this 23rd day of June, 2004.

