

# TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway  
Nashville, Tennessee 37243-0505

January 12, 2011

Lance J.M. Steinhart, PC  
1720 Windward Concourse  
Suite 115  
Alpharetta, GA 30005

RE: Docket No. 10-00128, *Application of Smart Connections, Inc. for a Certificate of Public Convenience and Necessity to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee*

Dear Mr. Steinhart:

CLEC applicants are required, by statute, to demonstrate their managerial, financial and technical abilities to provide the services for which they seek authority. To assist the Authority in its review of Smart Connections, Inc.'s application for Certificate of Convenience and Necessity to provide competing local exchange and interexchange telecommunications services in Tennessee, you are requested to provide the following information:

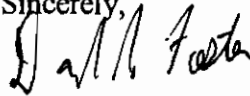
- 1) In its most recent response to the Tennessee Regulatory Authority, Smart Connections, Inc. provided a statement from a private investor, indicating personal funds would be invested in the company. A bank statement for a trust in the name of the private investor and a second individual was provided as evidence of availability of funding. Provide the amount to be invested and all terms and conditions associated with the repayment of these funds.
- 2) What is the relationship, business or otherwise, between Ms. Brannon and the private investor?
- 3) See the attached filing by AT&T Florida (excluding exhibits), dated December 20, 2010, Florida Public Service Commission Docket No. 100414-TX: *Application for Certificate to Provide Competitive Local Exchange Telecommunications Services by Capital Communications Consultants, Inc. AT&T Florida's Objection to Capital's Application for a CLEC Certificate*. The petition detailing AT&T's objections lists what appears to be the same individual who is listed on the bank statement provided as proof of funding for Smart Connections, Inc. in Tennessee. What is the relationship, business or otherwise, between Ms. Brannon and the other individual listed on the bank statement of the trust fund provided as evidence of the availability of funding for Smart Connections, Inc.?
- 4) Is the private investor for Smart Connections, Inc. associated with any other company, Lost Key Telecom, Capital Communications Consultants, Inc., BLC Management, LLC, Angles Communications Solutions, Associated

Telecommunications Management Services, Inc. or any other telecommunications company?

- 5) Does the private investor for Smart Connections, Inc. have additional financial obligations to any other telecommunications company, including but not limited to Lost Key Telecom, Capital Communications Consultants, Inc., BLC Management, LLC Angles Communications Solutions, or any other Associated Telecommunications Management Services company?

Please provide the above information by January 26, 2011. In accordance with TRA Rules, please submit either (1) thirteen written copies of your response or (2) four written copies and an electronic version and reference Docket No. 10-00128 on the correspondence. If you have questions concerning this request or need additional information, please contact Lisa Foust at 615-741-2904 extension 220.

Sincerely,

A handwritten signature in black ink, appearing to read "David Foster", written over the word "Sincerely,".

David Foster  
Utilities Division Chief



Manuel A. Gurdian  
General Attorney

AT&T Florida  
150 South Monroe Street  
Suite 400  
Tallahassee, FL 32301

T: (305) 347-5561  
F: (305) 577-4491  
manuel.gurdian@att.com

December 20, 2010

RECEIVED--FPSC  
10 DEC 20 PM 4:33  
COMMISSION  
CLERK

Ms. Ann Cole  
Commission Clerk  
Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re: Docket No. 100414-TX: Application for Certificate to Provide  
Competitive Local Exchange Telecommunications Service by  
Capital Communications Consultants, Inc.**

**Docket No. 100416-TI: Acknowledgement of Registration as  
Intrastate Interexchange Telecommunications Company by Capital  
Communications Consultants, Inc.**

Dear Ms. Cole:

Enclosed is BellSouth Telecommunications, Inc. d/b/a AT&T Florida's  
Objection to Capital's Application for a CLEC Certificate, which we ask that you file  
in the captioned dockets.

Copies have been served to the Parties shown on the attached Certificate of  
Service list.

Sincerely,

Manuel A. Gurdian

COM \_\_\_\_\_ cc: Parties of Record  
APA \_\_\_\_\_ Jerry D. Hendrix  
ECR \_\_\_\_\_ Gregory R. Follensbee  
GCL \_\_\_\_\_ E. Earl Edenfield, Jr.  
RAD \_\_\_\_\_  
SSC \_\_\_\_\_  
ADM \_\_\_\_\_  
OPC \_\_\_\_\_  
CLK \_\_\_\_\_

USA  
Proud Sponsor of the U.S. Olympic Team

DOCUMENT NUMBER DATE

10066 DEC 20 2

FPSC-COMM-REGISTRATION

**CERTIFICATE OF SERVICE**  
**Docket No. 100414-TX and 100416-TI**

I HEREBY CERTIFY that a true and correct copy of the foregoing was  
served via Electronic Mail and First Class U.S. Mail this 20th day of December,  
2010 to the following:

Victor McKay  
General Counsel  
Florida Public Service  
Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
Tel. No.: (850) 413-6098  
[vmckay@psc.state.fl.us](mailto:vmckay@psc.state.fl.us)

Capital Communications Consultants, Inc.  
Bryan Michael  
7320 Old Clinton Highway, Suite 10  
Knoxville, TN 37921-1064  
Tel. No.: (901) 596-7610  
FAX: (866) 422-5386  
[info@capcomphone.com](mailto:info@capcomphone.com)

Lance J.M. Steinhart, P.C.  
Lance J.M. Steinhart  
1720 Windward Concourse, Suite 115  
Alpharetta, GA 30005  
Tel No.: 770-232-9200  
Fax No.: 770-232-9208  
[lsteinhart@telecomcounsel.com](mailto:lsteinhart@telecomcounsel.com)



Manuel A. Gurdian

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for Certificate to Provide Competitive ) Docket No. 100414-TX  
Local Exchange Telecommunications Service by Capital )  
Communications Consultants, Inc. )

In re: Acknowledgement of Registration as Intrastate ) Docket No. 100416-TI  
Interexchange Telecommunications Company by )  
Capital Communications Consultants, Inc. ) Filed: December 20, 2010

**AT&T FLORIDA'S OBJECTION TO CAPITAL'S APPLICATION  
FOR A CLEC CERTIFICATE**

BellSouth Telecommunications, Inc. d/b/a AT&T Florida ("AT&T Florida") submits this Objection to Capital Communications Consultants, Inc.'s ("Capital") Application for Certificate to provide Competitive Local Exchange Service ("Application") in the State of Florida. The Florida Public Service Commission ("Commission") should deny the Application because Capital does not have "sufficient technical, financial, and managerial capability" pursuant to Florida Statutes § 364.337 to provide competitive local exchange service in Florida for three reasons, each of which, standing alone, require denial of Capital's Application. First, Capital does not have sufficient managerial and technical capability as Capital's management has no telecommunications experience managing, operating or working at a telecommunications company. Second, Capital does not have sufficient financial capability as Capital's purported assets are woefully inadequate to provide multi-state telecommunications services in eight states in the Southeast region. Third, Capital does not have sufficient managerial capability as Capital's management has filed inconsistent and/or inaccurate representations as to its officers and ownership with various state commissions. Moreover, the Commission should not allow Capital to continue to operate as an IXC in the state of Florida as it would not be in the public

DOCUMENT NUMBER DATE  
10066 DEC 20 9  
FPSC-COMMISSION CLERK

interest.<sup>1</sup> In the alternative, the Commission should thoroughly investigate Capital prior to issuance of a certificate in Docket No. 100414-TX or an acknowledgement memorandum in Docket No. 100416-TI. In support thereof, AT&T Florida states as follows:

#### **PARTIES**

1. The name and address of the affected agency is the Florida Public Service Commission ("Commission"), 2540 Shumard Oak Blvd., Tallahassee, Florida 32399. The Commission's docket numbers for these proceedings are 100414-TX and 100416-TI.
2. AT&T Florida is a Georgia corporation and its principal place of business is 675 W. Peachtree Street, NE, Atlanta, Georgia 30375.
3. AT&T Florida is an Incumbent Local Exchange Carrier under the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.
4. All pleadings, notices and other documents filed in this proceeding should be directed to AT&T Florida's representatives as follows:

E. Earl Edenfield Jr.  
Tracy W. Hatch  
Manuel A. Gurdian  
AT&T Florida  
c/o Gregory R. Follensbee  
150 South Monroe Street, Ste. 400  
Tallahassee, FL 32301  
[ke2722@att.com](mailto:ke2722@att.com)  
[th9467@att.com](mailto:th9467@att.com)  
[mg2708@att.com](mailto:mg2708@att.com)  
(305) 347-5558 (telephone)

---

<sup>1</sup> See *In re: Application for certificate to provide competitive local exchange telecommunications service by Premier Telecom-VoIP, Incorporated*, Docket No. 070172-TX and *In re: Acknowledgement of registration as intrastate interexchange telecommunications company, effective March 15, 2007, by Premier Telecom-VoIP, Incorporated*, Docket No. 070174-TI, Order No. PSC-07-0673-PAA-TP (Issued August 21, 2007)(Commission denied applicant's for authority to provide competitive local exchange telecommunications services within Florida for, in part, its failure to show that it had sufficient managerial capability are required by Section 364.337(1), Florida Statutes. Moreover, the Commission did not allow applicant to continue its LXC operations as it was not in the public interest).

(850) 222-8640 (fax)

5. Capital is a foreign corporation and the Florida Department of State – Division of Corporations lists its principal address as 7320 Old Clinton Hwy Ste. 10, Knoxville, TN 37921. Capital is a “Prepaid Home Phone Company specializing in offering service to low-income customers who participate in an approved government assistance program and qualify for the Lifeline and Linkup.” See Capital’s website, [www.capcomphone.com/aboutus.html](http://www.capcomphone.com/aboutus.html).

#### **STANDARD TO RECEIVE A CLEC CERTIFICATE IN FLORIDA**

6. Pursuant to Florida Statutes § 364.337(1), a party may file an application for a certificate as a competitive local exchange telecommunications company and the Commission is required to conduct a review of the application and to process it. The Commission can only grant a “certificate to provide competitive local exchange service upon a showing that the applicant has sufficient technical, financial and managerial capability to provide such service”. Section 364.337(1), Florida Statutes.

#### **COMMISSION’S CLEC APPLICATION**

7. When completing the Commission’s CLEC application the applicant must:
- identify the persons responsible for the application and on-going company operations;
  - provide contact information (address, phone number, etc.);
  - provide proof of active registration with the Florida Secretary of State;
  - complete a series of questions about the company, officers, directors, and stockholders; and
  - provide proof that it has the managerial, technical, and financial capability to operate as a CLEC in Florida.

*See In re: Application for certificate to provide competitive local exchange telecommunications service by Crystal Link Communications, Inc., Docket No. 090444-TX, Order No. PSC-10-0217-PAA-TX (Issued April 6, 2010).*

8. Specifically, with regard to a CLEC's "technical, managerial and financial capability", in responding to Paragraph 18 of the Commission's CLEC application, an applicant must submit information demonstrating the following:

(a) Managerial capability: resumes of employees/officers of the company that would indicate sufficient managerial experiences of each.

(b) Technical capability: resumes of employees/officers of the company that would indicate sufficient technical experiences or indicate what company has been contracted to conduct technical maintenance.

(c) Financial Capability: applicant's audited financial statements for the most recent three (3) years. If the applicant does not have audited financial statements, it shall so be stated. Unaudited financial statements should be signed by the applicant's chief executive officer and chief financial officer affirming that the financial statements are true and correct and should include:

1. the balance sheet
2. income statement, and
3. statement of retained earnings.

#### **CAPITAL'S CLEC APPLICATION FILED WITH COMMISSION**

9. On October 1, 2010, Capital filed its Application with the Commission.

10. On page 4 of the Application, Capital lists Bryan Michael as its President with a business address of 7320 Clinton Highway, Suite 10, Knoxville, Tennessee 37921.<sup>2</sup>

---

<sup>2</sup> In its applications to provide services filed in Mississippi and North Carolina, Capital indicates that its "Officers" are "Bryan Michael, President and Secretary" and its "Directors" are "Bryan Michael". See relevant pages from CLEC Applications filed in Mississippi and North Carolina attached hereto as Exhibits "A" and "B". In the Mississippi application, Capital lists its "15% Owners" as "Bryan Michael 100%". See Exhibit "A." In the North Carolina application, Capital lists its "Stockholders" as "Bryan Michael 100%". See Exhibit "B."



11. On page 5 of the Application, Capital states that it "is in the process of submitting applications in the States of Alabama, Mississippi, North Carolina and South Carolina" and that it is certificated to operate as a CLEC in "Georgia and Kentucky".

12. Under the section "Management Information", attached to the Application, is the resume of Bryan Michael, Capital's President. Mr. Michael lists his work experience with Wal-Mart Stores, Inc.

13. Other than Mr. Michael's resume, there are no other resumes attached to the Application.

14. Mr. Michael's resume does not describe any managerial or technical work experience with a telecommunications provider.

15. There are no other officers, managers, directors, employees or consultants listed on the Application.

16. Under the section "Financial Capability", attached to the Application, Capital states that "it has sufficient financial capability to provide the requested service in the State of Florida and has sufficient financial capability to maintain the requested service and to meet its lease or ownership obligations." A copy of Capital's balance sheet was filed under confidential cover on October 1, 2010 in this Docket.

#### **CAPITAL'S BALANCE SHEET FILED IN OTHER STATES**

17. While Capital's balance sheet was filed under confidential cover in Florida, Capital's balance sheet was publicly filed in at least three other states - Mississippi, South Carolina and Alabama. See Exhibits "C", "D", and "E" attached hereto. This balance sheet shows that Capital had assets of \$135,830.94 as of September 16, 2010.

#### **CAPITAL'S IXC REGISTRATION FILED WITH COMMISSION**

18. On October 1, 2010, Capital filed its IXC Registration form with the Commission in Docket No. 100416-TI.

19. The IXC Registration form lists Bryan Michael as its President.

**DIVISION OF CORPORATIONS APPLICATION FILED IN FLORIDA**

20. On July 13, 2010, Capital filed an Application by Foreign Corporation for Authorization to Transact Business in Florida ("Division of Corporations Application") with the Florida Department of State, Division of Corporations. See Division of Corporations Application attached hereto as Exhibit "F."

21. The Division of Corporations Application indicates that Bryan Michael is the "Chairman", "President" and "Secretary" of Capital.

22. No other individuals are listed on the Division of Corporations Application.

**2010 TRANSFER OF CONTROL PETITION FILED WITH GPSC**

23. On November 22, 2010, Capital and Bryan Michael filed a Joint Application for Approval of Transfer of Control ("2010 Transfer of Control Petition") in Docket No. 15418 before the GPSC. See 2010 Transfer of Control Petition attached hereto as Exhibit "G".

24. Capital filed the 2010 Transfer of Control Petition to "effectuate a Transfer of Control of Capital to Michael" and provides that Capital's "principal offices are located at 7470 Bartlett Corporate Cove W, Ste. 102, Bartlett, Tennessee 38113."

25. In its 2010 Transfer of Control Petition, under "III. Description of Transaction", Capital states that "Applicants have entered into a Stock Purchase Agreement under which Michael will purchase 100% of the issued and outstanding capital stock of Capital." Moreover, Capital further states that it is a "proposed transaction" and that "[t]here will be no impact on

customers as a result of the transaction as it will only result in a change in the ultimate ownership of the service provider.”

26. An organizational chart purportedly showing Capital’s “current ownership structure and after the transfer is completed” is attached as Exhibit A to the 2010 Transfer of Control Petition. This organizational chart provides for a “Pre Closing Holding Structure” of “Brian Cox 100% - Capital Communications Consultants, Inc.” and “Post Closing Holding Structure” of “Bryan Michael 100% - Capital Communications Consultants, Inc.”

27. On a Verification attached to the 2010 Transfer of Control Petition, Brian Cox, attests under penalty of perjury, that he is “President and Secretary of Capital Communications Consultants, Inc.”, that “the foregoing Joint Application was prepared under” his “direction and supervision” and “that the contents pertaining to Capital Communications Consultants, Inc. are true and correct to the best of my knowledge, information, belief.”

28. On a second Verification attached to the 2010 Transfer of Control Petition, Bryan Michael attests that he “will be President and Secretary of Capital Communications Consultants, Inc.”, that “the foregoing Joint Application was prepared under” his “direction and supervision” and “that the contents pertaining to Capital Communications Consultants, Inc. are true and correct to the best of my knowledge, information, belief.”

#### **STATE OF GEORGIA 2010 CORPORATION ANNUAL REGISTRATION**

29. On March 23, 2010, Capital filed its State of Georgia 2010 Corporation Annual Registration (“GA Registration”) with the Office of Secretary of State. See GA Registration attached hereto as Exhibit “H”. The GA Registration indicates that the “CEO”, “CFO” and “SEC” of Capital are “Mark A. McDaniel”. Capital also lists a business address of 11121 Hwy 70 STE 202, Arlington, TN 38003.

30. Bryan Michael's name does not appear on the GA Registration.

31. As of December 16, 2010, the Georgia Secretary of State's website continued to list "Mark A. McDaniel" as Capital's "CEO", CFO and "Secretary" and the corporation's address as "11121 HWY 70 STE 202, Arlington, TN 38003". *See* document obtained from Georgia Secretary of State website attached hereto as Exhibit "I".

#### **2009 TRANSFER OF CONTROL PETITION FILED WITH GPSC**

32. On February 19, 2009, Capital filed a Petition for Approval of a Transfer of Control Between Capital Communications, Inc. and Brian Cox ("2009 Transfer of Control Petition") in Docket No. 15418 before the Georgia Public Service Commission ("GPSC"). *See* 2009 Transfer of Control Petition attached hereto as Exhibit "J".

33. In its 2009 Transfer of Control Petition, Capital requested approval to transfer control of Capital, which had been owned by Mark McDaniel, to Brian Cox. At the time of the filing of the 2009 Transfer of Control Petition, Brian Cox was "President and CEO, as well as 50% owner of BLC Management LLC d/b/a Angles Communication Solutions ("BLC")." *See* section "I. The Applicants" of the Transfer of Control Petition."

34. Exhibit A to the 2009 Transfer of Control Petition provides for a Pre Closing Holding Structure as "Mark McDaniel 100% - Capital Communications Consultants, Inc." and a Post Closing Holding Structure as "Brian Cox 100% - Capital Communications Consultants, Inc." *See also*, "Stock Purchase Agreement by and between Brian Cox and Mark McDaniel" attached to the 2009 Transfer of Control Petition as Exhibit "B".

35. In its 2009 Transfer of Control Petition, under "III. Description of Transaction", Capital stated that "COX does intend to change the Capital name to Angles Communications,

and will make any necessary submissions to the Commission and provide any necessary notice to customers once name change is completed.”<sup>3</sup>

36. In its 2009 Transfer of Control Petition, under “IV. Public Interest Showing”, Capital stated that the “only change to Capital will be to its ultimate ownership and control and the transfer of control of Capital will be transparent to customer and will not have any adverse impact to them.”

37. On March 18, 2009, the Georgia Public Service Commission approved Capital’s 2009 Transfer of Control Petition to Cox pursuant to the Stock Purchase Agreement. See Georgia Public Service Commission’s March 18, 2009 Letter Order attached hereto as Exhibit “K”.

#### **BLC’S CLEC CERTIFICATE WAS REVOKED BY THE COMMISSION IN FLORIDA**

38. BLC’s CLEC certificate to provide service in Florida was revoked by the Commission in Docket No. 080475-TX. See Order Nos. PSC-08-0562-PAA-TX (Issued August 29, 2008) and Order No. PSC-08-0617-CO-TX (Issued September 23, 2008).

39. At the time, that BLC’s CLEC certificate was revoked by the Commission, Brian Cox was CEO, Manager, and/or an Officer of BLC. See September 27, 2008 Affidavit executed by Brian Cox and filed in Docket No. 080157-TX attached hereto as Exhibit “L” and 2008 Limited Liability Company Annual Report filed on July 7, 2008 with the Florida Secretary of State attached hereto as Exhibit “M”.

40. On April 20, 2009, BLC filed an Application for Authority to Provide Local Exchange Telecommunications Service Within the State of Florida. See BLC Application filed

---

<sup>3</sup> BLC Management LLC (“BLC”) did business in Florida as Angles Communication Solutions. See *In re: Application to provide competitive local exchange telecommunications service by BLC Management LLC d/b/a Angles Communication Solutions*, Docket No. 050191. As discussed below, BLC’s CLEC certificate in Florida was revoked in Docket No. 080475-TX.

with Commission on April 20, 2009 in Docket No. 090212-TX. BLC's Application lists under the Management Information section of the BLC Application - "Brian Cox, President/CEO, LLC Member and Manager", Danny Michael, Vice President" and "Steve Watson, Executive Telecom Consultant."

41. On February 26, 2010, BLC filed a Revised and Updated Application for Authority to Provide Local Exchange Telecommunications Service Within the State of Florida. *See Revised and Updated BLC Application filed with Commission on February 26, 2010 in Docket No. 090212-TX.* BLC's Application lists under the Management Information section of the BLC Revised Application - Thomas Biddix and Danny Michael. Danny Michael is listed as "General Manager" and "Operations Manager" for BLC. *See Revised BLC Application at 4.*

42. On September 15, 2010, BLC withdrew its pending Application for Authority to Provide Local Exchange Telecommunications Service Within the State of Florida. *See September 15, 2010 letter from BLC to the Commission filed in Docket No. 090212-TX.*

43. BLC is part of the Associated Telecommunications Management Services, LLC ("ATMS") group of companies and is currently under investigation by the Commission. *See In re: Investigation of Associated Telecommunications Management Services, LLC (ATMS) companies for compliance with Chapter 25-24, F.A.C., and applicable lifeline, eligible telecommunications carrier, and universal service requirements, Docket No. 100340-TP.* Attached hereto as Exhibit "N" is a listing of Commission Staff's concerns regarding the ATMS companies.

#### **INCONSISTENCIES/INACCURACIES IN CAPITAL'S FILINGS**

44. Capital's filings in various states provide as follows:

- Capital's 2010 Corporation Annual Registration (filed March 23, 2010) provides that Capital's Chief Executive Officer, Chief Financial Officer and Secretary are "Mark A. McDaniel".

- Capital's Application (filed October 1, 2010) provides that Bryan Michael is the President of Capital. *See also*, October 8, 2010 application filed with Mississippi Public Service Commission in Docket No. 10-UA-353 (lists Bryan Michael as President and Secretary and "100%" owner) and October 1, 2010 Application filed with North Carolina Utilities Commission in Docket No. P-1518 Sub1 (same)
- Capital's Florida Division of Corporations Application (filed July 13, 2010) provides that Bryan Michael is the Chairman, President and Secretary of Capital.
- 2010 Transfer of Control Petition (filed November 22, 2010) requested approval of transfer of control of Capital from Brian Cox to Bryan Michael. (emphasis added).
- 2010 Transfer of Control Petition (filed November 22, 2010) provided an "organizational chart, showing the current ownership structure and after the transfer is completed". The organizational chart provides that, pre-closing, Capital is "100%" owned by Brian Cox and that post-closing it will be owned "100%" by Bryan Michael. (emphasis added).
- Verification attached to the 2010 Transfer of Control Petition (filed November 22, 2010) states that Brian Cox is the President and Secretary of Capital.
- Verification attached to the 2010 Transfer of Control Petition (filed November 22, 2010) states that Bryan Michael "will be" President and Secretary of Capital. (emphasis added).
- 2010 Transfer of Control Petition (filed November 22, 2010) provides that the "Applicants have entered into a Stock Purchase Agreement under which Michael will purchase 100% of the issued and outstanding capital stock of Capital." (emphasis added).
- 2010 Transfer of Control Petition (filed November 22, 2010) provides that it is a "proposed transaction", that the "transaction" will "result in a change in the ultimate ownership of the service provider" and "[u]pon consummation of the transactions contemplated by the Agreement, Capital will continue to operate under the same operating authority as at present." (emphasis added).

- 2009 Transfer of Control Petition (filed February 19, 2009) requested approval of transfer of control of Capital from Mark McDaniel to Brian Cox.<sup>4</sup>

45. As can be seen from the above, Bryan Michael has been representing to multiple commissions that he is the current President and Secretary of Capital and is "100%" owner of Capital; however, on November 22, 2010, in its 2010 Transfer of Control Petition, Capital represented to the GPSC that Mr. Michael was not the current owner of Capital nor its President and Secretary but that Mr. Brian Cox is the current owner, as well as President and Secretary of Capital. Moreover, the documents on file with the Georgia Secretary of State provide that Mark McDaniel is the CEO, CFO and Secretary of Capital. Therefore, it is unclear who the current owner, President, Secretary, CEO of Capital truly are at this point and time and the Commission should not grant a certificate based upon these inconsistencies/inaccuracies filed by Capital in the various states.

**CAPITAL DOES NOT HAVE "SUFFICIENT TECHNICAL, FINANCIAL AND MANAGERIAL CAPABILITY" TO PROVIDE SERVICE IN FLORIDA**

46. The Commission should reject Capital's request for a CLEC Certificate for it not having "sufficient technical, financial, and managerial capability" pursuant to Florida Statutes § 364.337 to provide CLEC services in Florida.

47. First, Capital does not have sufficient managerial and technical capability as Bryan Michael, the sole Capital representative listed on the Application, has no telecommunications experience managing, operating or working at a telecommunications company.

---

<sup>4</sup> As indicated above, in its 2009 Transfer of Control Petition, Capital stated that "COX does intend to change the Capital name to Angles Communications". Based upon this statement, upon information and belief, it appears that Capital was integrated, at least to some extent, into BLC by Brian Cox. As noted above, Mr. Cox was in charge of BLC when its CLEC certificate was revoked by the Commission in Docket No. 080475-TX.



48. Second, Capital does not have sufficient financial capability as Capital's purported assets are woefully inadequate to provide multi-state telecommunications services in eight states in the Southeast region.

49. Third, Capital does not have sufficient managerial capability as Capital's management has filed inconsistent and/or inaccurate representations as to its officers and ownership with various state commissions.

50. Accordingly, based upon Capital's failure to have "sufficient technical, financial and managerial capability", the Commission should deny Capital's request for a certificate to provide telecommunications services in Florida.

#### **QUESTIONS THAT SHOULD BE ASKED OF CAPITAL**

51. In the alternative, if the Commission decides to move forward with Capital's Application, Capital should be required to provide responses to the following questions prior to the Commission's issuance of a Certificate in Docket No. 100414-TX:

- Who is the current owner, President and Secretary of Capital? If it is Bryan Michaels, why did Capital file a Transfer of Control Petition on November 22, 2010 with the GPSC stating that Brian Cox is the current owner, President and Secretary of Capital?
- Who was the owner, CEO, CFO, President or Secretary of Capital on March 23, 2010? If it was Brian Cox or Bryan Michael, why did Capital file its GA Corporation Annual Registration stating that "Mark A. McDaniel" was Capital's "CEO", CFO and "Secretary" on March 23, 2010?
- What relationship, if any, does Bryan Michael have with Mark McDaniel, Danny Michael, Steve Watson, Brian Cox, Thomas Biddix, ATMS or BLC?
- Are Mark McDaniel, Danny Michael, Steve Watson, Brian Cox, or Thomas Biddix, owners, directors, employees, shareholders, managers, directors or consultants to Capital?
- Other than Bryan Michael, are there any other principals, operators, officers, directors, company owners, shareholders, stakeholders, members of the board, employees and others holding management or executive positions of Capital?

- Identify the name and address of all entities with which Capital is affiliated or shares common ownership.
- Are any of Capital's employees, consultants, managers, directors currently employed by or affiliated with another telecommunications company? If so, please provide their names and the names of the companies.
- Have any of Capital's employees previously been employed or affiliated with another telecommunications company? If so, please provide the employees' names and which companies employed them.
- Does Capital have any employee or consultant who has experience managing a telecommunications company? If so, please provide name and relevant experience.
- Does Capital have any employee or consultant who has technical experience at a telecommunications company? If so, please provide name and relevant experience.
- The balance sheet provided by Capital to three other state commissions provides that Capital has approximately \$136,000 in current assets. If this is accurate, please explain why this is a sufficient amount to operate to operate a multi-state telecommunications company in eight (8) states in the Southeast Region?
- Has any entity and/or persons employed or affiliated with Capital identified above, been investigated, audited or had their certificate to operate revoked by any regulatory agency? If so, please explain circumstances and provide the name of the docket, docket number and any documents regarding the investigation, audit or docket.
- Based upon statements made in the 2009 Transfer of Control Petition, Brian Cox intended to change the name of Capital to "Angles Communications", i.e. BLC. To what extent did this occur and was Capital integrated or merged with BLC?

### **CONCLUSION**

52. In conclusion, based upon the foregoing, it is clear that Capital fails to have "sufficient technical, financial and managerial capability" to be issued a certificate to provide competitive local exchange services in Florida. Accordingly, the Commission should deny Capital's Application for its demonstrated lack of technical, financial and managerial capability to operate a telecommunications company in Florida. *See In re: Application for certificate to*

*provide competitive local exchange telecommunications service by Crystal Link Communications, Inc.*, Docket No. 090444-TX, Order No. PSC-10-0217-PAA-TX (Issued April 6, 2010)(Where Commission denied a CLEC's application for authority to provide CLEC services in Florida for its lack of the "appropriate managerial capability and financial resources" required by Section 364.337(1), Florida Statutes.) and *In re: Application for certificate to provide competitive local exchange telecommunications service by Premier Telecom-VoIP, Incorporated*, Docket No. 070172-TX, Order No. PSC-07-0673-PAA-TP (Issued August 21, 2007)(Where Commission denied applicant's application for authority to provide competitive local exchange telecommunications services within Florida for, in part, its failure to show that it had sufficient managerial capability as required by Section 364.337(1), Florida Statutes).<sup>5</sup> Moreover, it is not in the public interest to allow Capital to continue its IXC operations in Florida. See *In re: Acknowledgement of registration as intrastate interexchange telecommunications company, effective March 15, 2007, by Premier Telecom-VoIP, Incorporated*, Docket No. 070174-TI Docket No. 070172-TX, Order No. PSC-07-0673-PAA-TP (Issued August 21, 2007)(Where the Commission did not allow CLEC to continue its IXC operations as it was not in the public interest).

WHEREFORE, AT&T Florida respectfully requests that the Commission deny Capital Communications Consultants, Inc.'s Application for Certificate to provide Competitive Local Exchange Service and not allow Capital to continue IXC operations in the State of Florida.

---

<sup>5</sup> See also, *In re: Application for certificate to provide alternative local exchange telecommunications service by Commodity Partners, Inc.*, Docket No. 020319-TX, Order No. PSC-02-1382-PAA-TX (Issued October 8, 2002)(Where Commission denied company's application for a CLEC certificate on the basis that it did not have "sufficient managerial capability to provide" CLEC services in Florida as it appeared to the Commission that the "company failed to accurately complete its application for a certificate".) and *In re: Application for certificate to provide alternative local exchange telecommunications service by C.I.O., Inc.*, Docket No. 990971-TX, Order No. PSC-00-0078-PAA-TX (Issued January 10, 2000)(Where Commission denied CLEC's application as the CLEC "[had] not demonstrated" nor did the Commission believe that the CLEC had "the managerial capability to operate a telecommunications company in Florida.").

Respectfully submitted this 20th day of December, 2010.

BELLSOUTH TELECOMMUNICATIONS, INC.  
d/b/a AT&T FLORIDA



---

E. Earl Edenfield, Jr.

Tracy W. Hatch

Manuel A. Gurdian

c/o Greg Follensbee

150 South Monroe Street

Suite 400

Tallahassee, Florida 32301

(305) 347-5558

880256