

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of)	DOCKET NO. UT-023063
)	
BG ENTERPRISES, INC.,)	
d/b/a GRIZZLY TELEPHONE)	
)	ORDER REVOKING
For Designation as an Eligible)	DESIGNATION AS AN ELIGIBLE
Telecommunication Carrier.)	TELECOMMUNICATIONS CARRIER
.....)	

BACKGROUND

1 On January 8, 2003, the Commission granted the petition of BG Enterprises, Inc., (BG) for designation as an eligible telecommunications carrier (ETC). In that order, the Commission stated that it could revoke the designation “should the prerequisites to the original designation cease to exist.” *Order Granting Designation as an Eligible Telecommunications Carrier*, UT-023063, ¶ 14 (January 8, 2003). The Commission “has authority to modify, suspend, or revoke this designation, including the service areas accompanying this designation, at a future date.” *Id.* ¶ 23 (Conclusion of Law 4).

2 On February 12, 2003, the Staff of the Federal Communications Commission (FCC) informed the Commission that the FCC would not honor the designation of BG as an ETC because that designation was inconsistent with the requirement of 47 U.S.C. § 214(e)(1)(A). That statute requires a company to provide service “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.” 47 U.S.C. § 214(e)(1)(A). The FCC defines “facilities” as “physical components of the telecommunications network.” 47 C.F.R. § 201(e). Because BG does not provide service using any of its own facilities as components of the telecommunications network, the FCC Staff has concluded that BG is a “pure” reseller and therefore is not eligible for ETC designation under federal law.

3 By letter dated March 18, 2003, the Commission informed BG that the
Commission intends to revoke its ETC designation because BG does not qualify
for ETC designation under federal law. In that letter, the Commission offered BG
an opportunity to address this matter with the Commission at an open meeting
by requesting such opportunity within two weeks of the date of the letter. *See*
Attachment A. The Commission did not receive a request from BG to appear at
an open meeting.

FINDINGS AND CONCLUSIONS

4 From the above, the Commission enters the following summary findings and
conclusions:

- 5 (1) BG Enterprises, Inc., does not satisfy the statutory requirements to be an
eligible telecommunications carrier because it does not use any of its own
facilities to provide the services it offers.
- 6 (2) BG Enterprises, Inc., was provided notice and an opportunity to be heard
regarding revocation of its ETC designation at an open Meeting. BG has
not requested such opportunity.
- 7 (3) The Commission has jurisdiction over the subject matter of this
proceeding and BG Enterprises, Inc.
- 8 (4) The Commission has authority to modify, suspend, or revoke ETC
designations.

ORDER

THE COMMISSION ORDERS:

- 9 That designation of BG Enterprises, Inc., as an eligible telecommunications carrier (ETC) is revoked.

DATED at Olympia, Washington, and effective this 17th day of April, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner