etc., and place such types of records annually in their local public inspection file.

OMB Control Number: 3060–0349.

Type of Review: Extension of a currently approved collection.

Title: Equal Employment Opportunity Requirements.

Form Number: N/A.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 2,125.

Estimated Time per Response: 42 hours.

Frequency of Response: Recordkeeping; annual and five year reporting requirements.

Total Annual Burden: 89,250 hours.

Total Annual Cost: None.

Needs and Uses: On November 7, 2002, the FCC adopted a Second Report and Order and Third NPRM (Second R&O), MM Docket No. 98–204, FCC 02–303, 68 FR 670 (2003), which established new EEO rules and forms to comply with the court's decision in *MD/DC/DE Broadcasters Association* v. *FCC.* Among other things, the Second R&O adopts several EEO recordkeeping and reporting requirements. It specifies which EEO materials must be kept in the public inspection file. All multi-channel video program distributor (MVPD) employment units with six or more full-time employees are subject to EEO program provisions and must disseminate employment information widely. These MVPDs must also retain records to demonstrate they have recruited for all full-time permanent positions and must place a listing of all full-time vacancies filled and recruitment sources used for each vacancy for the preceding year in their EEO records file.

OMB Control Number: 3060–0922.

Type of Review: Extension of a currently approved collection.

Title: Broadcast Mid-Term Report, FCC Form 397.

Form Number: FCC 397.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 4,300.

Estimated Time per Response: 0.5 hours.

Frequency of Response: Recordkeeping; mid-point reporting requirement.

Total Annual Burden: 269 hours (one-eighth of respondents file annually).

Total Annual Cost: None.

Needs and Uses: On November 7, 2002, the FCC adopted a Second Report and Order and Third NPRM (Second R&O), MM Docket No. 98–204, FCC 02–303, 68 FR 670 (2003), which established new EEO rules and forms to comply with the court's decision in *MD/DC/DE Broadcasters Association* v. *FCC.* The new rules adopt a new version of FCC Form 397. The new EEO rules also ensure equal employment opportunity in the broadcast and multi-channel video program distribution industries through outreach to the community in recruitment and prevention of employment discrimination. The new version of FCC Form 397 is filed only once at the mid-point of the eight-year license term of television licensees, with five or more full-time employees, and radio licensees, with eleven or more full-time employees. Licensees must certify that they have complied with the FCC's EEO rules during the period prior to the date of the Mid-Term Report and must include copies of EEO reports that are required to be placed in the licensees' local public file for the prior two years.

OMB Control Number: 3060–1033.

Type of Review: Extension of a currently approved collection.

Title: Multi-Channel Video Program Distributor EEO Program Annual Report, FCC Form 396–C.

Form Number: FCC 396–C.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents: 2,200.

Estimated Time per Response: 10 mins. to 2.5 hrs.

Frequency of Response: Recordkeeping; annual and five-year reporting requirements.

Total Annual Burden: 3,188 hours.

Total Annual Cost: None.

Needs and Uses: On November 7, 2002, the FCC adopted a Second Report and Order and Third NPRM (Second R&O), MM Docket No. 98–204, FCC 02–303, 68 FR 670 (2003), which established new EEO rules and forms to comply with the court's decision in *MD/DC/DE Broadcasters Association* v. *FCC.* The new EEO rules ensure equal employment opportunity in the broadcast and multi-channel video program distribution (MVPD) industries through outreach to the community in recruitment and prevention of employment discrimination. In addition, the Second R&O combined previous FCC Forms 395–A and 395–M, which requested substantially the same information. The FCC adopted new Form 396–C, which is substantially the same as those portions of FCC 395–A and 395–M that sought data about the MVPD's compliance with EEO program requirements, but it omits those portions of the prior forms that sought workforce data. All MVPDs with six or more full-time employees must file an EEO report annually in the public file detailing their outreach efforts and the results for the prior year, as part of the in-depth MVPD investigation conducted once every five years.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–10520 Filed 4–28–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[EB Docket No. 03–85; FCC 03–68]

Business Options, Inc. (''BOI'') Order to Show Cause and Notice of Opportunity for Hearing

AGENCY: Federal Communications Commission.

ACTION: Notice; Order to show cause and opportunity for hearing.

SUMMARY: This document is an order for BOI to show cause and give BOI the opportunity for a hearing before the Commission. The Commission has found that an evidentiary hearing is required to determine whether the Commission should revoke the operating authority of BOI, BOI and its principal or principals should be ordered to cease and desist from any future provision of interstate common carrier services without the prior consent of the Commission, and a forfeiture against BOI is warranted and, if so, the amount of the forfeiture.

DATES: Effective April 29, 2003.

FOR FURTHER INFORMATION CONTACT: Peter G. Wolfe, Attorney Advisor for Telecommunications Consumers Division, Enforcement Bureau (202) 418–2191.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Order, EB Docket No. 03–85, released on April 7, 2002. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., CY–A257, Washington, DC 20554, and also may be purchased from the Commission's copy contractor, Qualex International, 445 12th SW., CY–B402, Washington, DC 20554, (202) 863–2893. It is also available on the Commission's Web site at *http://www.fcc.gov/Daily__Releases/Daily__Business/2003/db0407/FCC–03–68A1.pdf.*

Synopsis

A. Background

1. BOI is a reseller of long distance telephone service, located in Merrillville, Indiana. BOI operates as a common carrier subject to Title II of the

Communications Act of 1934 (''the Act''). Under the regulatory scheme established by the Act and the Commission's rules, BOI is classified as a nondominant interexchange carrier. As such, it is considered to have ''blanket'' authority to operate domestic common carrier facilities within the meaning of section 214 of the Act.

2. After receiving a high number of consumer complaints against BOI, the Enforcement Bureau, in cooperation with the Maine Public Utilities Commission, launched an investigation into the consumers' allegations of slamming. On November 1, 2002, Enforcement Bureau staff sent a Letter of Inquiry to BOI seeking, among other things, BOI's response to specific consumer allegations.

3. On September 12, 2002, BOI signed a stipulation with the Vermont Department of Public Service to settle a proceeding in which a Vermont Public Service Board Hearing Officer concluded that BOI had violated Vermont regulations by (1) Offering services without an approved tariff; (2) filing misleading corporate registration reports; (3) engaging in deceptive business practices; (4) failing to provide customers with a toll free number; (5) failing to file a discontinuance notice; (6) failing to provide consumers with an accurate written summary of their service order; and (7) changing consumers' telecommunications carrier without their authorization. Among other things, the stipulation required that BOI initiate the procedure outlined in section 63.71 of the Commission's rules for terminating service to Vermont customers who currently were being served by BOI. On December 20, 2002, BOI mailed an application to the Commission for authorization to discontinue its provision of resold interstate long distance service in Vermont on December 21, 2002 pursuant to section 214(a) of the Act and section 63.71 of the Commission's rules. BOI simultaneously filed a request for waiver of the customer notification requirements set forth in section 63.71(a) of the Commission's rules.

4. The Letter of Inquiry to BOI of November 1, 2002 asked a number of questions concerning (1) BOI's corporate structure, (2) its compliance with Commission registration requirements under section 64.1195 of the Commission's regulations, (3) whether it or its affiliates, subsidiaries, or agents changed the preferred carriers of listed complainants after April 1, 2002, and (4) its telemarketing practices. Among other things, the Letter of Inquiry asked whether during the period from April 1, 2002 to the present, BOI or any of its subsidiaries, affiliates, or any other entity acting under BOI's control or as its agent, submitted or executed an order to change the preferred carrier as specified in the complaints listed in Attachment A to the Letter. If so, BOI was directed to state who authorized the change in service and the manner in which the authorization was made and provide all documents and information related to the authorization and to describe in detail all steps taken to verify the consumer's request to change his or her preferred carrier.

5. In its response to the Letter of Inquiry, BOI asserted that ''[d]uring this period no one representing BOI has changed the preferred carrier as specified in the complaints in Attachment A. * * *'' It therefore did not provide any documents, including verification tapes or other proof of authorization related to the complaints. Further, BOI did not answer several of the inquiries, including (1) an inquiry that BOI provide evidence that it had complied with the registration requirements pursuant to section 64.1195 of the Commission's rules, and (2) an inquiry whether BOI or its agents found any instances since April 1, 2002, in which BOI telemarketing employees had changed a consumer's preferred carrier without asking the consumer whether he or she wanted to change the preferred carrier and without mentioning the name of Business Options. BOI did state that all of its telemarketers were BOI employees. In addition, in response to the inquiry requesting ''BOI's corporate structure, including a description of each affiliate of each subsidiary or affiliate and a list of the officers and directors of each affiliated entity,'' BOI did not list any affiliates or their officers or directors.

6. Enforcement Bureau staff sent Letters of Inquiry to the local exchange carriers (LECs) that serve the eight complainants listed in Appendix A of the Order to Show Cause and Notice of Opportunity for Hearing, requesting information about whether there had been any preferred carrier changes since April 1, 2002 for these complainants. The responses to the LEC Letters of Inquiry indicate that preferred carrier changes were submitted for all of these complainants by Qwest Corporation after April 1, 2002, and that subsequently the complainants received bills on behalf of BOI. These responses indicate that while preferred carrier changes to BOI may have been submitted before April 1, 2002 for several of the complainants, they were subsequently changed back to their prior carrier, but then changed again to BOI after April 1. In response to a separate inquiry from the Enforcement Bureau staff, Qwest Corporation confirmed that all of these preferred carrier changes were made on behalf of BOI.

7. In its Discontinuance Application, BOI stated that it provides resold service to approximately 200 business customers in Vermont, and that it has ''reevaluated its long distance business plan and has concluded that it is in the Company's best interest, at this time, to streamline its service in Vermont.'' It attached a Notice to Customers, which, it stated, its customers received on December 10, 2002, and has all the information requested by the State of Vermont. BOI states that it ''did not know of FCC requirements to send the letter out pursuant to 63.71.'' It also stated that it gave customers ''15 days from the day they received our notification letter to choose another long distance provider and protest our request for discontinuance.'' In fact, the letter does not provide any notice to customers of their right to protest the discontinuance, or any of the other requirements contained in section 63.71 of the Commission's rules. Rather, BOI asked for a waiver of those requirements.

8. The Vermont Department of Public Service filed a letter in response to the BOI filings. In the letter, Vermont attached the Stipulation referred to above, which requires BOI to ''initiate the procedure outlined in 47 CFR 63.71 for terminating service to Vermont customers who currently are being served by BOI.'' Vermont stated that BOI's application was inaccurate. First, Vermont contended that ''[i]t is stretching credibility to assert that being told that you can no longer do business in a state is a strategic business decision.'' Second, it stated that BOI did know of the requirements of § 63.71 of the Commission's rules because the Stipulation that BOI signed required that BOI initiate the procedure outlined in § 63.71. Third, Vermont contended that BOI's Notice did not comply with the information required by Vermont because the Stipulation required BOI to follow the requirements of § 63.71 of the Commission's rules and to send a notice that differed from the notice that BOI sent to its customers. Finally, Vermont pointed out that BOI stated its notice was received by its customers on December 10, providing a notice period of 11 days before termination on December 21, not 15 days. Vermont subsequently provided a letter from BOI stating, among other things, that all customers were disconnected on December 21, 2002.

9. All of the consumers who filed the complaints discussed in the Order to Show Cause and Notice of Opportunity for Hearing maintained that they never authorized BOI to change their preferred carriers. Several of them stated that the telemarketer represented telephone companies other than BOI.

10. The Maine Public Utilities Commission sent the Commission third party verification tapes that had been sent to that agency by BOI. In these recordings, the verifier identified himself or herself, said ''you are authorized and give permission to Business Options to change the long distance phone service, is that correct?'', asked the consumer if he or she understood that the rates would be $4.90 per month and 7 cents per minute, and asked the consumer to verify the name and address, and to provide the consumer's date of birth. Some of the tapes, but not all, specify the telephone number to be changed, and some state that BOI is not the local phone company.

B. Discussion

11. It appears that BOI intentionally provided incorrect or misleading information to the Commission when it stated in its response to the most central inquiry in the Letter of Inquiry that, since April 1, 2002, ''no one representing BOI * * * changed the preferred carrier as specified in the complaints in Attachment A.'' The responses from the local exchange carriers of the consumers in question appear to show that Qwest Corporation did change the preferred carrier of these consumers after April 1, 2002, and that these consumers were subsequently billed for BOI charges. The fact that the changes were electronically submitted by Qwest, rather than directly by BOI, is of no consequence here; the consumer was billed for BOI service, and Qwest, the carrier whose services BOI was reselling, was apparently acting as BOI's agent in transmitting the preferred carrier change to the local exchange carrier. Indeed, Qwest has confirmed that it made these changes on behalf of BOI. Based on this evidence, it appears that BOI gave incorrect information when it stated that neither it nor its representative made these carrier changes after April 1, 2002. Further, it appears that BOI further lacked candor by not providing a response to Enforcement Bureau inquiries as to whether BOI had complied with the common carrier registration requirements pursuant to section 64.1195 of the Commission's rules, whether BOI or its agents found any instances since April 1, 2002 in which BOI telemarketing employees changed a consumer's preferred carrier without asking the consumer whether he or she wanted to change the preferred carrier and without mentioning the name of BOI, and whether BOI had any affiliates or subsidiaries.

12. BOI's Application for Discontinuance also appears to contain other misrepresentations or instances of lack of candor. First, its statement that it was requesting authority to discontinue because it had reevaluated its business plan appears flatly inconsistent with its Stipulation that it was obligated to seek discontinuance authorization to settle the proceeding that had been brought against BOI by the Vermont Department of Public Service. Second, its statement that it did not know of the requirements of section 63.71 of the Commission's rules appears inconsistent with its agreement to a Stipulation that expressly required it to initiate the procedure under section 63.71. Third, its statement that its Notice provided all the information that was required by Vermont also appears inconsistent with the Stipulation that specifically required BOI to comply with section 63.71 procedures and to send the Notice that was attached to the Stipulation. Fourth, its statement that it had given ''its customers 15 days from the day they received our notification letter to choose another long distance provider and protest our request for discontinuance'' appears inconsistent with its assertions that the customers received the Notice on December 10 and that BOI would terminate service on December 21. That statement also appears inconsistent with the Notice, which did not inform customers of their right to protest, as is required by the notice provisions of section 63.71.

13. It appears that these statements and omissions constitute misrepresentations or lack of candor, aimed at deceiving the Commission into believing BOI did not violate the Act and/or Commission rules. With regard to the apparent misrepresentation or lack of candor in the response to the Letter of Inquiry, the evidence provided by the LECs and Qwest (as well as complainants) appears to show that a truthful answer by BOI would have contained an admission that it changed the consumers' preferred carriers, and BOI would have had to prove that such changes were authorized, which presumably it could not do. By instead stating that ''no one representing BOI * * * changed the preferred carrier as specified in the complaints in Attachment A'' after April 1, 2002, BOI apparently intended to convey that it was in compliance with section 258 and our related rules, in an apparent attempt to lead the staff to terminate the investigation without enforcement action. With regard to the omissions of required information in BOI's response to the Letter of Inquiry, it appears that they too were designed to deceive the staff by hiding inculpatory evidence regarding slamming, failure to file the required registration statement, and hiding any illegal acts performed in the names of other companies in which BOI's principals were officers. With respect to the apparent misrepresentations in the Application for Discontinuance, motives to deceive also appear to exist. First, BOI's statement in the Application for Discontinuance that it was seeking discontinuance for business reasons appears to be an attempt to hide the fact that it had been charged with serious violations by the Vermont Department of Public Service, some of which, such as slamming, were under investigation by the Commission. The other misstatements in the application appear to have been aimed at attempting to excuse BOI's late filing of the Application and its failure to comply with the notice requirements of the Commission's rules.

14. Section 258 of the Act makes it unlawful for any telecommunications carrier to ''submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.'' Section 64.1120(a)(1) of the Commission's rules prescribes that no submitting carrier ''shall submit a change on the behalf of a subscriber * * * prior to obtaining: (i) Authorization from the subscriber, and (ii) verification of that authorization in accordance with the procedures prescribed in this section.'' The Commission's rules thus expressly bar telecommunications carriers from changing a consumer's preferred carrier without first obtaining the consumer's consent, and then verifying that consent.

15. The Commission's rules provide some latitude in the methods carriers can use to verify carrier change requests. The carrier can elect to verify that authorization through one of three options: obtaining the consumer's written or electronically signed authorization; setting up a toll free number for the consumer to call for verification; or obtaining verification through an independent third party. There is no latitude, however, in the requirement that carriers obtain both authorization and verification prior to

submitting a carrier change request. For those carriers who use an independent third party for verification, the Commission's rules require that the verification method confirm at least six things: The identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the change; the names of the carriers affected by the change; the telephone numbers to be switched; and the types of service involved. The rules also require that carriers keep audio records of the verification for a minimum of two years after obtaining such verification. Finally, the Commission's rules require that where a carrier ''is selling more than one type of telecommunications service * * * that carrier must obtain separate authorization from the subscriber for each service sold * * *. Each authorization must be verified separately from any other authorizations obtained in the same solicitation.''

16. BOI did not submit any evidence of authorization or verification regarding the consumer complaints cited in the Enforcement Bureau's Letter of Inquiry. It appears that BOI has therefore apparently failed to meet its burden to rebut complainants' assertions that BOI changed their preferred carriers in violation of the Act and the Commission's rules. In this record, BOI appears to have provided no evidence to justify the preferred carrier changes it apparently made. There is no need to refer to the tapes BOI provided to the Maine Public Utilities Commission, since BOI did not provide these tapes to the Commission's staff as justification for their changes of the consumers' preferred carriers. Even if the Commission were to consider the five tapes BOI submitted to the Maine Public Utilities Commission, however, these tapes show that BOI does not gather the critical information that our rules require. For example, the tapes do not confirm in an acceptable manner that the person is authorized to make the change and, most significantly, do not confirm the switch of the authorized carrier. First, the tapes do not verify the names of the consumers' prior carriers which were affected by the change, as required under the Commission's rules, nor do the tapes of Paul Brackett, Beatrice Violette, and Laura Crowley verify the telephone number to be switched. Second, the statement in the tapes by the third party verifier that ''You are authorized and giving permission to Business Options to change the long distance phone service, correct?'' confusingly combines questions as to whether the person is the authorized decision maker and whether the person is choosing BOI as his or her preferred carrier. Finally, in two instances, Paul Brackett and Laura Crowley, it appears that the consumer did not understand what the verifier was saying. Paul Brackett only responded ''Uh-huh'' to all of the verifier's questions. It appears that such an answer was not sufficient to permit the verifier to know whether Mr. Brackett agreed to change service providers. Laura Crowley asked the verifier whether there would be a change to her phone bill, and the verifier only replied that she was just verifying what the telemarketer had told the consumer. It appears from this colloquy that Ms. Crowley believed that her service was not going to change. It appears that in neither case were the consumer's answers clear enough to verify that they indeed wanted BOI's service.

17. The above examples appear to show a pattern of verification that falls egregiously short of the requirements in the Commission's rules, either because they omit certain requirements or because they pose questions in such a way that the consumer is confused and the consumer's intent cannot be verified. Accordingly, the tapes that BOI submitted to the Maine Public Utilities Commission do not appear to be sufficient to rebut the allegations in the complaints that BOI changed the preferred carriers of the five consumers without proper authorization.

18. For the remaining three complaints that were filed with the Commission, BOI failed to provide a tape or any other evidence, beyond its denial that ''no one representing BOI has changed the preferred carrier as specified in the complaints'' after April 1, to rebut the allegations in the complaints. Based on this failure, it appears that BOI is liable for changing the preferred carriers of those consumers without authorization. As we discussed above, our rules require carriers to keep audio records of third-party verification for a minimum of two years after obtaining the verification. BOI has not produced evidence to show that it used third-party verification or any of the other verification methods that the Commission's rules allow. Furthermore, based on the evidence of its practices shown by the several ''verification'' tapes discussed above, it is reasonable to assume that any verification BOI might have obtained would likely fall egregiously short of the requirements in our rules. Therefore, even if BOI used a third-party verifier, BOI still would not likely have sufficient evidence to rebut the allegations in the complaints that it changed the preferred carriers of the remaining three consumers without prior authorization.

19. Section 64.1195 of the Commission's rules requires that any telecommunications carrier providing interstate telecommunications service on or after the effective date of the rule (March 1, 2001) shall submit an FCC Form 499–A. BOI was a telecommunications carrier on or after the effective date of the rule. BOI failed to respond to a request to provide evidence that it had submitted this report. Nor do the Commission's files contain any evidence that BOI has filed this report. The Commission therefore finds that BOI has apparently failed to file FCC Form 499–A, in violation of section 64.1195. Section 64.1195 specifically provides for revocation of operating authority for failure to comply with its provisions.

20. BOI's application for authorization appears to show that BOI did not meet its obligations as a common carrier to adequately notify its customers of the discontinuance or seek Commission approval before it discontinued service, in apparent violation of section 214(a) of the Act and sections 63.71 and 63.505 of the Commission's rules.

21. Under the Act and our rules, it is clear that a telecommunications carrier must receive Commission authorization and provide the required notice to its customers before it may discontinue service to those customers. The service of approximately 200 BOI customers in Vermont was apparently terminated by December 21, 2002. It appears that BOI did not file any application until the day before its discontinuance, and never gave customers notice of their right to protest. Further, as stated above, it appears that the reasons that BOI gave for its failure to comply with Commission rules, *i.e.,* its ignorance of such rules and its compliance with requirements of the State of Vermont, were not true. The Stipulation BOI signed with Vermont was executed in September 2002. Therefore, it appears that at that time BOI knew or should have known that in the near future, it would have to file an application for discontinuance and provide notice to its customers. In view of the foregoing facts, it appears that BOI willfully or repeatedly discontinued service without Commission authorization in violation of section 214(a) of the Act and sections 63.71 and 63.505 of the Commission's rules.

22. The Administrative Law Judge is directed to determine whether BOI willfully or repeatedly has made

misrepresentations or engaged in lack of candor; whether BOI willfully or repeatedly violated section 258 of the Act and the related Commission rules by changing consumer's preferred carriers without their authorization; whether BOI willfully or repeatedly failed to file a Registration Statement in violation of section 64.1195 of the Commission's rules; whether BOI willfully or repeatedly discontinued service without Commission authorization; whether the BOI's blanket section 214 authorization should be revoked; and whether specific Commission authorization should be required for BOI, or the principal or principals of BOI, to provide any interstate common carrier services in the future.

C. Conclusion

23. In light of the totality of the information now before us, an evidentiary hearing is warranted to determine whether the continued operation of BOI as a common carrier would serve the public convenience and necessity within the meaning of section 214 of the Act. Further, due to the egregious nature of BOI's apparently unlawful activities, BOI will be required to show cause why an order to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission should not be issued. In addition, consistent with our practice in revocation proceedings, the hearing will also address whether a forfeiture should be levied against BOI.

Ordering Clauses

24. Pursuant to sections 4(i) and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 214, the principal or principals of Business Options, Inc. are directed to show cause why the operating authority bestowed on Business Options, Inc. pursuant to section 214 of the Communications Act of 1934, as amended, should not be revoked.

25. Pursuant to section 312(b) of the Communications Act of 1934, as amended, 47 U.S.C. 312(b), the principal or principals of Business Options, Inc. are directed to show cause why an order directing them to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission should not be issued.

26. The hearing shall be held at a time and location to be specified by the Chief Administrative Law Judge in a subsequent order. The ALJ shall apply the conclusions of law set forth in this Order to the findings that he makes in that hearing, upon the following issues:

(a) to determine whether Business Options, Inc. made misrepresentations or engaged in lack of candor;

(b) to determine whether Business Options, Inc. changed consumers' preferred carrier without their authorization in willful or repeated violation of section 258 of the Act and sections 64.1100–1190 of the Commission's rules;

(c) to determine whether Business Options, Inc. failed to file Form FCC 499–A in willful or repeated violation of section 64.1195 of the Commission's rules;

(d) to determine whether Business Options, Inc. discontinued service without Commission authorization in willful or repeated violation of section 214 of the Act and sections 63.71 and 63.505 of the Commission's rules;

(e) to determine, in light of all the foregoing, whether Business Options, Inc.'s authorization pursuant to section 214 of the Act to operate as a common carrier should be revoked;

(f) to determine whether, in light of all the foregoing, Business Options, Inc., and/or its principals should be ordered to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission;

27. The Chief, Enforcement Bureau, shall be a party to the designated hearing. Both the burden of proceeding and the burden of proof shall be upon the Enforcement Bureau as to issues (a) through (f) inclusive.

28. To avail themselves of the opportunity to be heard, the principal or principals of Business Options, Inc., pursuant to section 1.91(c) of the Commission's rules, shall file with the Commission within 30 days of the mailing of this Order to Show Cause and Notice of Opportunity for Hearing a written appearance stating that a principal or other legal representative from Business Options, Inc. will appear at the hearing and present evidence on the matters specified in the Show Cause Order. If Business Options, Inc. fail to file a written appearance within the time specified, Business Options, Inc.'s right to a hearing shall be deemed to be waived. In the event that the right to a hearing is waived, the Presiding Judge, or the Chief, Administrative Law Judge if no Presiding Judge has been designated, shall terminate the hearing proceeding as to that entity and certify this case to the Commission in the regular course of business, and an appropriate order shall be entered.

29. If it is determined that BOI has willfully or repeatedly violated any provision of the Act or the Commission's rules cited in the Order to Show Cause and Notice of Opportunity for Hearing, it shall be further determined whether an Order for Forfeiture shall be issued pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of no more than: (a) $80,000 for each unauthorized conversion of complainants' long distance service in violation of 47 U.S.C. 258 and 47 CFR 64.1120; (b) $3,000 for the failure to file a sworn statement or a Registration Statement in violation of a Commission directive and 47 CFR 64.1195; and (c) $120,000 for the unauthorized discontinuance of service to a community in violation of 47 U.S.C. 214 and 47 CFR 63.71 and 63.505.

30. This document constitutes a notice of opportunity for hearing pursuant to section 503(b)(3)(A) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b)(3)(A), for the potential forfeiture liability outlined above.

31. *It is further ordered* that a copy of this order to show cause and notice of opportunity for hearing shall be sent by certified mail, return receipt requested, to Kurtis Kintzel, President and Chairman of the Board of Business Options, Inc., 8380 Louisiana Street, Merrillville, Indiana 46410–6312.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–10521 Filed 4–28–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested