

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of AAV Certificate No. 7790, issued to A.SUR Net, Inc., for apparent third-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 090222-TA  
ORDER NO. PSC-09-0300-PAA-TA  
ISSUED: May 6, 2009

NOTICE OF PROPOSED AGENCY ACTION ORDER IMPOSING PENALTIES AND  
COLLECTION COSTS OR CANCELLING ALTERNATIVE ACCESS VENDOR  
CERTIFICATE FOR VIOLATION OF RULE 25-4.0161, FLORIDA ADMINISTRATIVE  
CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Pursuant to Rule 25-4.0161(10), Florida Administrative Code, telecommunications companies that fail to pay the Regulatory Assessment Fee, including any statutory late payment charges, within 15 days after receiving a delinquent notice, shall be automatically penalized \$500 for a first offense, \$1,000 for a second offense, and \$2,000 for a third offense. The penalty amounts include collection costs. If an entity fails to pay the Regulatory Assessment Fee in full, including any statutory late payment charges, along with the penalty amount, that entity's certificate shall be cancelled. In this case, A.SUR Net, Inc. paid the fee more than 15 days after receiving the delinquent notice.

Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate was active during any portion of the calendar year. Pursuant to Rule 25-4.0161(2), Florida Administrative Code, the form and applicable fees are due to the Florida Public Service Commission by January 30 of the subsequent year. Pursuant to Section 350.113(4), Florida Statutes, the Regulatory Assessment Fee return forms, for the period of January 1 through December 31, are mailed to entities at least 45 days prior to the date that payment of the fee is due.

The Division of Administrative Services advised that A.SUR Net, Inc., Company Code TA057, failed to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code. In addition, A.SUR Net, Inc. has had two prior dockets for the same rule violation in which the company paid the past due Regulatory Assessment Fees and a \$500 penalty to resolve Docket No. 060463-TA and a \$1,000 penalty to resolve Docket No. 070346-TA.

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FPSC-COMMISSION CLERK

Accordingly, we hereby find it appropriate to cancel A.SUR Net, Inc.'s alternative access vendor (AAV) certificate for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, unless A.SUR Net, Inc. pays a penalty and cost of collection, together totaling \$2,000.

If this Order is not protested, A.SUR Net, Inc.'s AAV certificate shall be cancelled. If A.SUR Net, Inc. pays the penalty and cost of collection, together totaling \$2,000, prior to the expiration of the Proposed Agency Action Order, then A.SUR Net, Inc.'s AAV certificate will remain active. If A.SUR Net, Inc. fails to protest the Order or pay the penalty and cost of collection, together totaling \$2,000, prior to the expiration of the Proposed Agency Action Order, then A.SUR Net, Inc.'s AAV certificate shall be cancelled administratively, and the collection of any unpaid Regulatory Assessment Fees shall be referred to the Florida Department of Financial Services for further collection efforts. If A.SUR Net, Inc.'s AAV certificate is cancelled in accordance with this Commission's Order, the company shall immediately cease and desist providing alternative access vendor service in Florida. This docket shall be closed administratively either upon receipt of the payment of the penalty and cost of collection, together totaling \$2,000, or upon cancellation of A.SUR Net, Inc.'s AAV certificate. If A.SUR Net, Inc.'s AAV certificate is cancelled in accordance with this Order and it subsequently decides to reapply for a certificate, A.SUR Net, Inc. shall be required to first pay the penalty and cost of collection, together totaling \$2,000 and any outstanding fees, including all accrued statutory late payment charges. We are vested with jurisdiction over these matters pursuant to Sections 350.113, 364.336, 364.337, and 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that A.SUR Net, Inc. shall pay a penalty and cost of collection, together totaling \$2,000, to the Florida Public Service Commission for failure to comply with Section 364.336, Florida Statutes, and Rule 25-4.0161, Florida Administrative Code, by the end of the protest period. The cost of collection will be subtracted from any monies collected as payment (full or partial) of the penalty and cost of collection, and will be deposited, in the Florida Public Service Regulatory Trust Fund, pursuant to Section 350.113, Florida Statutes. Any portion of the penalty exceeding the cost of collection will be remitted to the Florida Department of Financial Services for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that should A.SUR Net, Inc. fail to comply with this Order, that entity's certificate shall be cancelled. It is further

ORDERED that the cancellation of the certificate in no way diminishes A.SUR Net, Inc.'s obligation to pay applicable Regulatory Assessment Fees, and any accrued statutory late payment charges. If A.SUR Net, Inc. has its certificate cancelled, and subsequently decides to reapply for a telecommunications certificate, that company shall be required to first pay any outstanding penalties and cost of collection. Any unpaid Regulatory Assessment Fees, and accrued statutory late payment charges, shall be referred to the Florida Department of Financial Services for further collection efforts. It is further

ORDERED that if A.SUR Net, Inc.'s certificate is cancelled in accordance with this Order, the company shall immediately cease and desist providing alternative access vendor service in Florida. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed upon receipt of the imposed penalty and cost of collection, together totaling \$2,000, or upon cancellation of A.SUR Net, Inc.'s AAV certificate.

By ORDER of the Florida Public Service Commission this 6th day of May, 2009.



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ANN COLE  
Commission Clerk

( S E A L )

TJB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This

ORDER NO. PSC-09-0300-PAA-TA

DOCKET NO. 090222-TA

PAGE 4

petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 27, 2009.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.