

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Atlantic.Net Broadband, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records.

DOCKET NO. 000239-TX  
ORDER NO. PSC-00-1024-AS-TX  
ISSUED: May 23, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER

ORDER APPROVING SETTLEMENT OFFER

BY THE COMMISSION:

On April 17, 1999, Atlantic.Net Broadband, Inc. (Atlantic.Net) obtained from this Commission Alternative Local Exchange Company Certificate Number 6070. Thereafter, on June 25, 1999, our staff mailed a certified letter to Atlantic.Net requesting information necessary for inclusion in the local competition report we are required to submit in accordance with Section 364.386, Florida Statutes. The staff requested a response by August 6, 1999. On July 6, 1999, Atlantic.Net signed for the certified letter. Atlantic.Net did not, however, respond to the letter.

On December 6, 1999, our staff sent a second certified letter asking Atlantic.Net to respond to the data request by no later than December 22, 1999. Again, Atlantic.Net did not respond. Therefore, on February 22, 2000, this docket was opened to investigate whether Atlantic.Net should be required to show cause why it should not be fined or have its certificate canceled for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

On April 10, 2000, we issued Order No. PSC-00-0669-SC-TX, requiring Atlantic.Net to show cause why it should not be fined or have its certificate cancelled for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

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Subsequently, on May 1, 2000, Atlantic.Net submitted an offer to settle this case, which is attached and incorporated in this Order as Attachment A.

Atlantic.Net's offer includes an explanation of its start-up staffing problems that it claims resulted in its failure to provide the requested information. In its settlement offer, Atlantic.Net proposes the following: 1) to pay a monetary settlement of \$3,500; 2) to institute procedures to prevent this from happening again; and 3) to give incoming mail from the Florida Public Service Commission the highest priority in the future.

Upon consideration, we find that the terms of the settlement offer are fair and reasonable. Therefore, we hereby accept Atlantic.Net's offer of settlement. The \$3,500 contribution shall be received by this Commission within 10 business days from the issuance date of this Order and shall identify the docket number and company name. We shall forward the contribution to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

This docket shall remain open pending the remittance of the \$3,500 voluntary contribution. Upon remittance of the settlement payment, this docket shall be closed. If the company fails to pay in accordance with the terms of this Order, the company's certificate shall be canceled administratively, and this docket should be closed.

It is therefore

ORDERED by the Florida Public Service Commission that the settlement offered by Atlantic.Net Broadband, Inc. is accepted as set forth in the body of this Order. It is further

ORDERED that Atlantic.Net Broadband, Inc. shall remit to this Commission the \$3,500 contribution within 10 business days from the issuance date of this Order. It is further


ORDERED that the contribution shall be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. It is further

ORDERED that upon remittance of the settlement contribution, this Docket shall be closed. It is further

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ORDERED that if the company fails to pay in accordance with the terms of this Order, the company's certificate shall be canceled administratively, and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 23rd day of May, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

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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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.



Atlantic.net  
Tel: 352-375-2912 or 800-622-7936  
Fax: 352-375-2702

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Issued April 10, 2000

Today Date 4/17/00

On March 15, 2000 we officially started our Alec operations. Prior to this date only the initial paperwork though our attorneys was completed. Due to the large number of mail we received on a daily bases; all mail that was related to the ALEC was set-aside for the startup date.

We understand that PSC has the right to audit our record. At the time that the questionnaire was sent to our office, there was no staff to receive or answer the questionnaire. On 3/01/2000, I was hired to oversee the ALEC operations, and on 3/09/2000, I submitted an answer to the questionnaire. We understand the necessary of the questionnaires as we are still having problems with ILEC at this time. It was not a intentional act of Atlantic.net broadband to withhold any information from the PCS. Due to the large amount of mail that is sent to a new clec and the small staff of a new ALEC we must prioritize all incoming mail and I can insure you that PSC will get the highest priority from now on.

We ask that the PSC reduce the fine to \$3500.00. We now have in place procedures to prevent this from happing again.

If I can be of further help you can reach me directly at 352 375-2912 extensions 4387.

A handwritten signature in black ink that reads "Kevin Hayes".

Kevin Hayes  
Director of ALEC operations  
Atlantic.net Broadband