

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 000231-TX
ORDER NO. PSC-00-1095-AS-TX
ISSUED: June 6, 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 November 3, 1998, Ernest Communications, Inc. (ECI) obtained from this Commission Alternative Local Exchange Company Certificate Number 5722. Thereafter, on June 25, 1999, our staff mailed a certified letter to ECI requesting information necessary for inclusion in the local competition report we are required to submit in accordance with Section 364.386, Florida Statutes. Our staff requested a response by August 6, 1999. On July 6, 1999, ECI signed for the certified letter. ECI did not, however, respond to the letter.

On December 6, 1999, our staff sent a second certified letter asking ECI to respond to the data request by no later than December 22, 1999. Again, ECI did not respond. Therefore, on February 22, 2000, this docket was opened to investigate whether ECI 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-00-0671-SC-TX, requiring ECI to show cause why it should not be fined or have its certificate cancelled for apparent violation of Section 364.183(1),

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FPSC-RECORDS/REPORTING

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Florida Statutes. Subsequently, on April 27, 2000, ECI submitted an offer to settle this case, which is attached and incorporated in this Order as Attachment A.

ECI's offer includes an explanation of its employee problem that it claims resulted in its failure to provide the requested information. In its settlement offer, ECI proposes the following: 1) to pay a monetary settlement of \$4,000; and 2) to adhere to its reporting and compliance requirements to the Commission in the future.

Upon consideration, we find that the terms of the settlement offer are fair and reasonable. Therefore, we hereby accept ECI's offer of settlement. The \$4,000 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 \$4,000 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 Ernest Communications, Inc. which, by reference, is incorporated herein as Attachment A, is accepted as set forth in the body of this Order. It is further

ORDERED that Ernest Communications, Inc. shall remit to this Commission the \$4,000 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 Ernest Communications, Inc. 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 6th day of June, 2000.



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,

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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.



04/26/00

Ms. Blanca Bayo
Director, Division of Records and Reporting
State of Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

APR 27 2000

STATE OF FLORIDA PUBLIC SERVICE COMMISSION
RECORDS DIVISION

Docket Number-000231-TX - Ernest Communications, Inc.

Ms. Bayo,

I am writing to address a notice that our company received dated 4/10/00 by the State of Florida Public Service Commission that gives us 21 days to respond to the allegations raised in the above-referenced Docket Number.

In conversations and communications with your Staff Counsel, Tim Vaccaro, I raised several issues that I believe exempts our company from having to follow through with the Show Cause proceedings, or pay a fine (copy attached). However, in order to avoid any further unnecessary time and expense for either of our staffs, Ernest Communications, Inc. would like to offer a settlement of \$4,000.00 to put this unfortunate incident to rest. I would also like to once again offer you assurance that this single incident was the result of an isolated employee problem that has been rectified. Furthermore, you can be certain that ECI is fully aware of its responsibilities and obligations as a corporate citizen of the State of Florida, and intends to fully adhere to those requirements.

Thanks for your time and attention to this matter, and please feel free to contact me if you have any questions, or need further information.

Sincerely,

Paul Masters
President

cc: Tim Vaccaro

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