

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 000217-TX
ORDER NO. PSC-00-1135-AS-TX
ISSUED: June 22, 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 March 13, 1999, ATI Telecom, Inc. (ATI) obtained from this Commission Alternative Local Exchange Company Certificate Number 5164. Thereafter, on June 25, 1999, our staff mailed a certified letter to ATI 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, ATI signed for the certified letter. ATI did not, however, respond to the letter.

On December 6, 1999, our staff sent a second certified letter asking ATI to respond to the data request by no later than December 22, 1999. Again, ATI did not respond. Therefore, on February 22, 2000, this docket was opened to investigate whether ATI 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 7, 2000, we issued Order No. PSC-00-0648-SC-TX, requiring ATI to show cause why it should not be fined or have its certificate cancelled for apparent violation of Section 364.183(1), Florida Statutes. Subsequently, ATI submitted an offer to settle this case dated May 22, 2000, which is attached and incorporated in this Order as Attachment A.

ATI's offer includes an explanation regarding ATI's 1999 office relocation and confusion over its current contact address

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that resulted in its failure to provide the requested information. In its settlement offer, ATI proposed the following: 1) to pay a voluntary contribution of \$3,500; and 2) to institute procedures to preclude this from happening in the future. ATI also indicated that its offer of settlement is not an admission of violation of Commission statutes.

Upon consideration, we find that the terms of the settlement offer are fair and reasonable. Therefore, we hereby accept ATI'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 ATI Telecom, 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 ATI Telecom, 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

ORDERED that if ATI Telecom, 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.

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By ORDER of the Florida Public Service Commission this 22nd
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, 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.

LAW OFFICES OF THOMAS K. CROWE, P.C.

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May 22, 2000

BY FEDEX

Tim Vaccaro
Senior Attorney
Division of Legal Services
Florida Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: ATI Telecom, Inc.; Docket No. 000217-TX;
Settlement Offer to Order No. PSC-00-0648-SC-TX

Dear Mr. Vaccaro:

The following settlement is offered on behalf of ATI Telecom, Inc. ("ATI") in relation to the Commission's March 28, 2000 Order to Show Cause ("Order") in the above-captioned proceeding. The Order required ATI to show cause as to why it failed to respond to the Commission's local competition questionnaire. ATI timely filed a Response with the Commission on April 28, 2000, in which it explained that its failure to reply was not "wilful" within the meaning of Section 364.285, Florida Statutes, Fla. Stat. ch. 364.285 (1999) and, therefore, no penalty at all should be imposed by the Commission.

ATI wishes to put this matter behind it without the expenditure of additional resources for a hearing or other legal process. ATI also recognizes that the Commission's resources are better devoted to more important matters. Accordingly, ATI is willing to offer a voluntary settlement or payment of \$3,500 to the State of Florida to resolve this matter. ATI respectfully requests that any order or ruling by the Commission in this matter reflect that 1) the payment is a voluntary settlement (and not reflect that it is a fine); and 2) no determination as to fault or violation is being made.

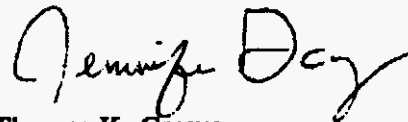
It is also important to note that ATI has taken the necessary steps to prevent an incident

Tim Vaccaro
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similar to the one which led to the issuance of the Order from occurring again in the future. The circumstances which gave rise to the Order involved 1) confusion over ATI's current contact address and 2) a 1999 office relocation. These problems have been addressed as ATI returned a completed form to the Commission in March, 2000 to update information contained in the Master Commission Directory of Regulated Utilities. The form shows the company's new business address and new contact person, Susan Cutright, Vice President and General Counsel (see enclosed form). As a result, all correspondence from the Commission will be properly routed such that it will receive prompt attention and a response, where necessary. ATI takes its obligations as a certified carrier very seriously and places a high degree of importance on responding to all regulatory notices on a timely basis.

Please file-stamp and return the extra copy of this filing in the self-addressed, stamped envelope for this purpose. All communications concerning this letter should be directed to the undersigned.

Sincerely,



Thomas K. Crowe
Jennifer Gorny,
Counsel for ATI Telecom, Inc.

Enclosures

cc: Melinda Watts, Florida Public Service Commission (via fax)