

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone for apparent violation of Section 364.183(1), F.S., Access to Company Records.

DOCKET NO. 000218-TX  
ORDER NO. PSC-00-1605-AS-TX  
ISSUED: September 7, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
E. LEON JACOBS, JR.  
LILA A. JABER

ORDER ACCEPTING OFFER OF SETTLEMENT

BY THE COMMISSION:

Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone (ATSI) is certificated to provide alternative local exchange telecommunications services in Florida. On June 25, 1999, our staff sent a certified letter to ATSI requesting information and requesting a written response by August 6, 1999. Our staff did not receive the requested information from ATSI. Our staff sent a second certified letter requesting the information to ATSI on December 6, 1999, and requesting a written response by December 22, 1999. Our staff still did not receive the requested information from ATSI. By Order No. PSC-00-0679-SC-TX, issued April 12, 2000, ATSI was required to show cause why it should not be fined or have its certificate canceled, pursuant to Section 364.285, Florida Statutes, for apparent violation of Section 364.183(1), Florida Statutes.

On April 25, 2000, ATSI sent its response to our Order to Show cause. Upon analyzing the documents submitted by ATSI as proof that it had sent the required data, our staff noticed some irregularities that indicated the documents had been altered. In particular, the copy of the air bill provided by ATSI appeared to have been altered. Our staff contacted the shipping company and received a copy of the original air bill. Comparison of the two

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air bills indicated that the one from ATSI had been altered to make it appear it was sent to "W. DHASSLER" and indicated that the package contained information related to "EXCHANGE INFORMATION." However, a copy of the original air bill, as submitted by Airborne Express, indicated that it was addressed to "RAY KENNEDY" and the contents were in regard to "dba INFORMATION," which was the subject of a previous matter with the company, but totally unrelated to the data request. Both air bills are dated November 7, 2000.

During the June 6, 2000, agenda conference, the President of ATSI admitted that staff's findings were accurate. By proposed agency action Order No. PSC-00-2031-PAA-TX (PAA Order), issued June 12, 2000, ATSI's certificate was canceled, ATSI was required to notify its customers in a prescribed manner of the certificate cancellation, and the appropriate authority would be notified for disposition of the apparent violation of Section 837.06, Florida Statutes.

On July 3, 2000, ATSI filed a protest of Order No. PSC-00-2031-PAA-TX and subsequently met with our staff on July 14, 2000, to discuss the case. On August 7, 2000, ATSI submitted a settlement offer.

In its settlement offer, ATSI states it provides local phone services as an alternative local exchange company to customers who are otherwise unable to obtain phone service from the incumbent Local Exchange Company. ATSI states that it has a customer base of approximately 3,000 and a good record of customer care. ATSI believes that, given its record and the nature of the service it provides, cancellation of its certificate would result in confusion and frustration for its customers and would be directly contrary to the public interest. ATSI also claims that the business is family owned and if its certificate is lost, it would create financial hardship for those family members that were unaware of the circumstances surrounding this docket. Therefore, ATSI has proposes to: voluntarily contribute to the General Revenue Fund the amount of \$25,000; assure that it will promptly provide all information sought by staff; and participate in a meeting with staff no later than 90 days after issuance of this Order, to review and demonstrate understanding of the rules that pertain to the provisioning of alternative local exchange services in Florida in lieu of having its certificate canceled.

Given the serious nature of ATSI's actions, we are cautious in accepting ATSI's proposed settlement offer. However, because

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ATSI's president admitted that staff's findings were factual and based on representations made by ATSI's president and its legal counsel, ATSI has convinced us that it will honor the proposed settlement offer and will henceforth deal honestly with us. We believe that the \$25,000 proposed by ATSI as a voluntary contribution to the General Revenue Fund is sufficient in magnitude to convince ATSI that its obligations to honestly deal with us is of utmost importance.

We have also given consideration to the public interest in ATSI's offer. In reviewing consumer complaints filed with us, we find no complaints that would indicate ATSI has caused significant harm to any consumer. Furthermore, if ATSI's future actions causes harm to consumers, we can initiate appropriate action. It is our belief that ATSI has learned from this experience and will diligently work to abide with our rules. We believe that the terms of the settlement agreement will provide incentive for ATSI to henceforth operate within the law.

Upon consideration, we find that ATSI's settlement proposal is acceptable, but will also refer ATSI to the appropriate authority for disposition of the apparent violation of Section 837.06, Florida Statutes. Any contribution should be received by this Commission within ten business days from the issuance date of our Order and should identify the docket number and company name. The contribution will be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285 (1), Florida Statutes. If ATSI fails to pay in accordance with the terms of the settlement offer, its certificate will be canceled, and this docket closed. Whether or not the company meets the terms of the settlement offer, ATSI should be referred to the appropriate authority for apparent violation of Section 837.06, Florida Statutes, within 30 days from the issuance date of this Order. Finally, no precedent will be established by our acceptance of a settlement in this case.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone's settlement proposal as described in the body of this Order shall be accepted. It is further

ORDERED that Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone shall be referred to the appropriate

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authority for disposition of the apparent violation of Section 837.06, Florida Statutes. It is further

ORDERED that the voluntary contribution shall be received by the Commission within ten business days from the issuance date of this Order and should identify the docket number and company name. It is further

ORDERED that the voluntary 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 (1), Florida Statutes. It is further

ORDERED that if Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone fails to pay in accordance with the terms of the settlement offer, the company's certificate shall be canceled, the matter shall be referred to the appropriate authority for disposition of the apparent violation of Section 837.06, Florida Statutes, and this docket should be closed.

By ORDER of the Florida Public Service Commission this 7th day of September, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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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.