

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against America's Tele-Network Corp. for apparent violation of Rule 25-4.118, F.A.C., Local, Local Toll, and Toll Provider Selection.

DOCKET NO. 001066-TI

In re: Initiation of show cause proceedings against America's Tele-Network Corp. for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

DOCKET NO. 001813-TX  
ORDER NO. PSC-01-1035-AS-TP  
ISSUED: April 27, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI

ORDER APPROVING SETTLEMENT

BY THE COMMISSION:

I. CASE BACKGROUND

On February 3, 1996, America's Tele-Network Corp. (AT-N or company) was granted Certificate No. 4377 to provide interexchange (IXC) telecommunications services within the State of Florida. On April 15, 1997, AT-N was granted Certificate No. 4834 to provide alternative local exchange (ALEC) telecommunications services within the State of Florida. Docket No. 001066-TI was opened to initiate show cause proceedings against AT-N for apparent violations of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection on August 7, 2000. On September 14, 2000, our staff filed a recommendation to order AT-N to show cause why it should not be fined \$2,840,000 for 284

DOCUMENT NUMBER-DATE

05260 APR 27 2001

FPSC RECORDS/REPORTING

apparent slamming violations or have its certificate canceled for the apparent violations of Rule 25-4.118, Florida Administrative Code. Docket No. 001066-TI was deferred from the September 26, 2000, Agenda Conference at the request of AT-N on September 25, 2000. During the period of October 23, 2000 through December 7, 2000, our staff had several discussions with regulatory counsel for AT-N regarding a settlement proposal from AT-N. On December 20, 2000, our staff determined that AT-N had not responded to 158 slamming complaints (Docket No. 001066-TI) against its IXC operations and five complaints (Docket No. 001813-TX) against its ALEC operations for failure to respond to Commission staff inquiries regarding customer complaints filed with the Florida Public Service Commission (Commission).

On December 22, 2000, Docket No. 001813-TX was opened to initiate show cause proceedings against AT-N for apparent violation of Rule 25-4.043, Response to Commission Staff Inquiries, Florida Administrative Code, for failing to respond to five complaints against the company's ALEC operation. On February 9, 2001, AT-N submitted its second revised final settlement proposal to resolve the apparent violations cited in Dockets Nos. 001066-TI and 001813-TX.

The Florida Public Service Commission is vested with jurisdiction over these matters pursuant to Sections 364.01, 364.183, 364.285, and 364.603, Florida Statutes.

## II. DISCUSSION

As previously stated, our staff filed a recommendation on September 14, 2000, to order AT-N to show cause why it should not be fined a total of \$2,840,000 (for 284 apparent slamming violations) or have its certificate canceled pursuant to Section 364.285(1), Florida Statutes for apparent violation of Rule 25-4.118, Florida Administrative Code, Local, Local Toll, or Toll Provider Selection. At AT-N's request, this item was deferred from the September 26, 2000, Agenda Conference. Hence, we deferred our consideration of this item.

On December 20, 2000, our staff determined that AT-N had not responded to five complaints filed against its ALEC operation within 15 days as required by Rule 25-4.043, Florida Administrative

Code, Response to Commission Staff Inquiries, which states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

On December 22, 2000, staff opened Docket No. 001813-TX to initiate show cause proceedings against AT-N for apparent violations of Rule 25-4.043, Response to Commission Staff Inquiries, Florida Administrative Code.

As previously stated, our staff participated in ongoing discussions with regulatory counsel for AT-N in an attempt to resolve Docket Nos. 001066-TI and 001813-TX. On February 9, 2001, AT-N submitted its second revised final settlement proposal. In its settlement proposal, AT-N stated that it has ceased marketing in Florida on October 1, 2000, and also ceased active operations other than minimal customer maintenance actions. In its settlement proposal, AT-N further agreed to do the following:

- Not to object to the involuntary cancellation of its Certificate Nos. 4377 and 4834.
- Provide restitution by February 28, 2001, for all Florida customers who filed a complaint before the date of its settlement (February 9, 2001) with either the company (AT-N) or the Commission. Such restitution shall include full compensation for all 158 of the outstanding alleged complaints against AT-N's IXC operations and the five complaints against its ALEC operations.
- Notify each Florida customer in writing by March 1, 2001 that operations will effectively cease March 31, 2001.

AT-N decided to cease providing IXC and ALEC services in Florida by March 31, 2001, rather than offering a monetary settlement in lieu of showing cause or paying a fine for the apparent violations of Rule 25-4.118, Florida Administrative Code,

ORDER NO. PSC-01-1035-AS-TP  
DOCKETS NOS. 001066-TI, 001813-TX  
PAGE 4

Local, Local Toll, or Toll Provider Selection and Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries.

### III. CONCLUSION

Accordingly, we find that AT-N's second revised final settlement offer dated, February 9, 2001, is reasonable to resolve Dockets Nos. 001066-TI and 001813-TX and is hereby accepted. AT-N shall file a report with the Commission by May 11, 2001, stating how it has complied with its settlement offer and provided restitution to all of the individuals who have filed a complaint against its IXC and ALEC operations. AT-N's Certificate Nos. 4377 and 4834 are hereby canceled and the company should have ceased operations in Florida by no later than March 31, 2001. If AT-N fails to file a report with the Commission by May 11, 2001, demonstrating that it has complied with its settlement offer, further show cause proceedings shall be initiated.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that America's Tele-Network Corp.'s second revised final settlement offer, as set forth in the body of this Order, is hereby approved. It is further

ORDERED that America's Tele-Network Corp.'s IXC Certificate No. 4377 and ALEC Certificate No. 4834, are hereby canceled. It is further

ORDERED that if America's Tele-Network Corp. fails to file a report demonstrating its compliance with its settlement offer by May 11, 2001, these dockets shall remain open. It is further -

ORDERED that should America's Tele-Network Corp. file its report by May 11, 2001, demonstrating how it has complied with its settlement offer, these dockets should be closed administratively.

ORDER NO. PSC-01-1035-AS-TP  
DOCKETS NOS. 001066-TI, 001813-TX  
PAGE 5

By ORDER of the Florida Public Service Commission this 27th  
day of April, 2001.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

( S E A L )

FRB

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

ORDER NO. PSC-01-1035-AS-TP  
DOCKETS NOS. 001066-TI, 001813-TX  
PAGE 6

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.