

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation
of Sprawlnet.com Inc. d/b/a
Public Communications Services
for apparent violation of
Section 364.183(1), F.S., Access
to Company Records.

DOCKET NO. 030165-TC
ORDER NO. PSC-03-0527-PAA-TC
ISSUED: April 21, 2003

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING FINE OR CANCELING PAY TELEPHONE CERTIFICATE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

On March 1, 1990 Sprawlnet.com Inc. d/b/a Public Communication
Services (PCS) obtained pay telephone Certificate No. 2437. PCS
reported operating revenue of \$94,601.00 on January 24, 2002.

On May 24, 2002 our staff sent PCS a notice of an impending
Audit Request via the United States Postal System (U.S.P.S.). The
letter notified the company that the auditor would contact the
company to coordinate the audit. Our staff sent PCS a request for

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documents needed to complete the audit on June 6, 2002. Our staff then sent PCS a second request for documents needed to complete the audit on November 14, 2002. The company was given a due date of November 22, 2002.

On December 12, 2002 our staff sent PCS a certified letter urging the company to respond and advising of possible Commission action if it failed to do so. On January 8, 2003 the letter dated December 12, 2002, was returned by the U.S.P.S. with a forwarding address written on the envelope. On January 9, 2003 our staff sent PCS a second certified letter to the forwarding address written on the envelope of the returned December 12, 2002, letter reiterating the contents of that letter. On January 31, 2003 the letter dated January 9, 2003, was returned by the U.S.P.S. marked "Unclaimed."

We are vested with jurisdiction over these matters pursuant to Sections 364.01, 364.17, 364.18, 364.183, 364.285, and 364.3375, Florida Statutes.

ANALYSIS AND FINDINGS

Section 364.183(1), Florida Statutes, requires that telecommunications providers allow our staff access to all records that are reasonably necessary for the disposition of matters within the Commission's jurisdiction.

We find PCS's conduct of failing to respond to our staff's request for access to its records for an audit in apparent violation of Section 364.183(1), Florida Statutes, is "willful" within the meaning and intent of Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 for GTE Florida, Inc., the Commission having found that the company had not intended to violate the rule, nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "[I]n our view, 'willful' implies intent to do an act, and this is distinct from intent to violate a statute or rule." Thus, any intentional act, such as PCS's conduct at issue here, would meet the standard for a "willful violation."

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Section 364.285(1), Florida Statutes, authorizes the Commission to impose upon any entity subject to its jurisdiction a penalty for each offense of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364, Florida Statutes. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Sprawlnet.com Inc. d/b/a Public Communication Services is hereby fined \$10,000 for failure to comply with Section 364.183(1), Florida Statutes. The penalty shall be paid within 14 calendar days after the issuance of the Consummating Order to the Florida Public Service Commission pursuant to Section 364.285(1), Florida Statutes. It is further

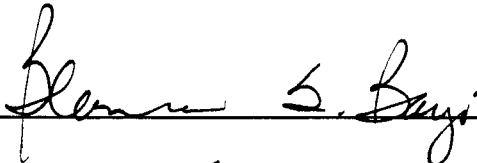
ORDERED that pursuant to Rule 25-24.820(1)(b), Florida Administrative Code, should Sprawlnet.com Inc. d/b/a Public Communication Services, fail to comply with this Order, Sprawlnet.com Inc. d/b/a Public Communication Service's Certificate No. 2437 shall be canceled, effective on the date of issuance of the Consummating Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed upon payment of the fine or upon cancellation of the certificate.

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By ORDER of the Florida Public Service Commission this 21st
Day of April, 2003.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

JPR

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 12, 2003.

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In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.