

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 010125-TX
ORDER NO. PSC-01-1010-AS-TX
ISSUED: April 24, 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 ACCEPTING SETTLEMENT OFFER

BY THE COMMISSION:

On April 17, 1999, Atlantic.Net Broadband, Inc. (Atlantic.Net) obtained Florida Public Service Commission Alternative Local Exchange Telecommunications Company (ALEC) Certificate Number 6070. Thereafter, on February 22, 2000, our staff opened Docket No. 000239-TX to initiate show cause proceedings against Atlantic.Net for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records for failure to provide our staff with information contained in company records necessary for inclusion in the 1999 local competition report to the Legislature. On April 10, 2000, we issued Order No. PSC-00-0669-SC-TX, in Docket No. 000239-TX, requiring Atlantic.Net to show cause why it should not be fined \$10,000 or have its ALEC certificate canceled for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. Subsequently, on May 23, 2000, we issued Order No. PSC-00-1024-AS-TX, approving a \$3,500 settlement offer submitted by Atlantic.Net in Docket No. 000239-TX. Atlantic.Net's check for \$3,500 was received on June 6, 2000.

On July 6, 2000, Atlantic.Net was mailed a certified letter requesting information contained in company records for inclusion in the 2000 local competition report to the Legislature. The return receipt was signed by a representative of Atlantic.Net on

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July 10, 2000. Again, however, our staff did not receive the information requested. Therefore, this Docket was opened to initiate show cause proceedings against Atlantic.Net for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records, for failure to provide our staff with information contained in company records necessary for inclusion in the 2000 local competition report to the Legislature. On March 6, 2001, Atlantic.Net submitted an offer of settlement.

We are vested with jurisdiction over this matter pursuant to Sections 364.183 and 364.285, Florida Statutes.

In its settlement offer, Atlantic.Net explained that it did respond to our staff's questionnaire, but since it cannot offer proof, it proposed the following:

- A monetary settlement of \$7,000;
- To institute a new filing system wherein all correspondence from this Commission will be date stamped and prioritized;
- To dispatch all documents to the Florida Public Service Commission via certified mail or other delivery methods which provide a record of the date sent and received;
- To maintain a collection of the relevant portions of the Florida Administrative Code; and
- To appoint qualified personnel to work closely with Commission staff to ensure that all documents submitted to the Florida Public Service Commission are complete and appropriate.

In the settlement offer for the previous show cause action against Atlantic.Net, Docket No. 000239-TX, the company stated that it had experienced some start-up staffing problems that resulted in its failure to provide the data requested for inclusion in the 1999 local competition report to the Legislature. To correct this, it stated it would give incoming mail from the Florida Public Service Commission the highest priority and institute procedures to ensure it did not happen again. The company maintains that for the 2000 local competition report to the Legislature, it did provide the

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requested data. However, it sent the information through the United States Postal Service via regular mail and, therefore, has no proof to support its claim. In outlining the changes it will make to better meet its regulatory obligations in its offer to settle this docket, Atlantic.Net has demonstrated a significant improvement in organization, understanding, and commitment to regulatory matters.

Upon consideration, we find the terms of the settlement agreement are fair and reasonable. Therefore, we hereby accept Atlantic.Net's offer of settlement. Any contribution should be received by this Commission within ten business days from the issuance date of this Order and shall identify the docket number and company name. We shall then 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. If the company fails to pay in accordance with the terms of the Commission Order, certificate number 6070 shall be canceled administratively. The company has waived any objections to the administrative cancellation of certificate number 6070 in the event it fails to comply with the terms of its settlement offer.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that Atlantic.Net Broadband, Inc.'s offer of settlement is hereby accepted. It is further

ORDERED that Atlantic.Net Broadband, Inc. shall remit the \$7000 voluntary contribution to this Commission within ten (10) business days of the issuance of this Order, and ensure that the proper docket number and company name are clearly referenced. It is further

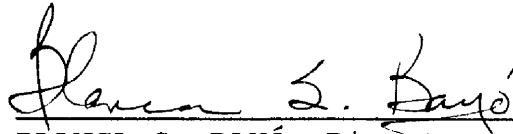
ORDERED that this docket shall remain open pending the remittance of the \$7,000 voluntary contribution. It is further

ORDERED that upon remittance of the \$7000 voluntary contribution, this docket shall be closed. It is further

ORDERED that if the company fails to pay in accordance with the terms of this Order, certificate number 6070 shall be canceled administratively, and this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 24th
day of April, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

BK/TV

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.