

KATZ, KUTTER, HAIGLER, ALDERMAN, BRYANT & YON

PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW

www.katzlaw.com

ORIGINAL

Orlando Office

Suite 900
111 North Orange Avenue
ORLANDO, FL 32801
(407) 841-7100
fax (407) 648-0660

Tallahassee Office

12th Floor
106 East College Avenue
TALLAHASSEE, FL 32301
(850) 224-9634
fax (850) 222-0103

Miami Office

Suite 409
2999 NE 191st Street
AVENTURA, FL 33180
(305) 932-0996
fax (305) 932-0972

Washington, DC Office

Suite 750
801 Pennsylvania Avenue, NW
WASHINGTON, D.C. 20004
(202) 393-1132
fax (202) 624-0659

May 11, 2001

Ms. Felicia Banks, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 010136-TX, Order No. PSC-01-0623-SC-TX, In Re: Initiation Of Show Cause Proceedings Against Teleglobe Business Solutions, Inc., For Apparent Violation Of Section 364.183(1), F.S., Access to Company Records.

Dear Ms. Banks:

The purpose of this letter is to propose a settlement to the above show cause action.

The Show Cause Order

On March 14, 2001, the Commission initiated a show cause proceeding against Teleglobe Business Solutions, Inc. ("TBS" or the "Company") through the issuance of Order No. 01-0623-SC- TX ("Show Cause Order"). The basis of the Show Cause Order is that TBS's failure to respond to certain data requests issued by the Commission pursuant to Section 364.183(1), Florida Statutes, was "willful" or an act violating a Commission rule or order. As a consequence of this alleged violation, the Commission seeks to impose a penalty against TBS pursuant to Section 364.285(1), Florida Statutes. The data requests concerned the state of local competition in Florida and asked local service providers to assess the competitive climate and barriers to competition.

TBS's Response

On April 4, 2001, TBS timely filed its Response and Memorandum in Opposition to FPSC's Order to Show Cause (and on April 5, 2001 an Amended Response) denying the allegation that any failure to respond to the Commission's request for information

- APP _____
- CAF _____
- CMP _____
- COM _____
- CTR _____
- ECR _____
- ESG
- OPC _____
- PAI _____
- PRO _____
- SEC
- SER _____
- OTH

MAY 11 2001
RECEIVED FPSC
MAY 11 AM 9:15
REPORTING

RECEIVED & FILED

Man

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

05892 MAY 11 01

FPSC-RECORDS/REPORTING

Ms. Felicia Banks, Esq.
May 11, 2001
Page 2

pursuant to section 364.183(1) was "willful" or an act violating a Commission rule or order for purposes of imposing penalties.

As reflected more fully in the Amended Response to Show Cause, any failure of TBS to respond to the staff's data request was inadvertent and was a result of the Company moving its headquarters from Virginia to Dallas, Texas. According to the Show Cause Order, two letters were sent to TBS at its Virginia offices, with the second sent by certified mail; according to the Show Cause Order, the letter was allegedly signed by someone on behalf of TBS. At about that time, TBS, upon receipt of correspondence on regulatory matters in its Virginia offices, began to routinely forward such correspondence on to its Dallas office transitioning this oversight activity from Reston, Virginia to Dallas. TBS simply does not know what became of either letter because the letters do not appear to have been received in Dallas.

What TBS does know, however, is that its management had the intent to file all required reports and responses. For example, TBS and its sister corporation – Excel Telecommunications, Inc. – began sharing regulatory management during the time of the transition. Excel did in fact respond to the Commission's request by submitting information identical to that which TBS would have submitted. Moreover, neither of these two ALECs provide local service in Florida.

TBS's failure to respond was, thus, the result of simple oversight. Such oversight occurred because of the relocation of its offices and the transfer of management responsibility. TBS apologizes for this inadvertent oversight. TBS has already taken steps to ensure that all Commission correspondence, be it directed to Excel Telecommunications or TBS, is handled promptly and in a coordinated fashion. For example, in the latter part of 2000 - well before the issuance of the Show Cause - the Company requested that the Commission direct all correspondence for Excel as well as TBS to Mr. Joel Ballew, a Director of Regulatory Affairs in Excel's Dallas offices.

Settlement Offer

In light of the above, TBS believes that the interests of the public, the Commission, and TBS itself can best be served through settlement of this matter. While TBS denies that it willfully failed to provide the data responses, TBS hereby offers to make a payment of \$1,500.00 to settle this proceeding.¹ Payment would be made within 30 days of the issuance date of the final order approving this offer.

¹ This offer does not constitute an admission that TBS has refused to comply with or has willfully violated any lawful rule or order of the Commission. Moreover, acceptance of TBS's offer of settlement will not constitute a finding by this Commission of any such violation.

Ms. Felicia Banks, Esq.

May 11, 2001

Page 3

TBS believes that, upon review, the Commission will find that accepting this offer is appropriate and in the public interest. The amount of the settlement offer reflects the mitigating factors in this case. Settlement avoids subjecting the Commission, its staff, and TBS to the unnecessary expense and inconvenience of administrative litigation.

TBS respectfully requests, therefore, that the Commission approve this offer of settlement on the bases stated herein, and that the Commission issue its final order effecting such acceptance and providing that, upon receipt of this payment, this docket be closed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick K. Wiggins". The signature is written in a cursive, flowing style.

Patrick K. Wiggins

ON BEHALF OF
TELEGLOBE BUSINESS SOLUTIONS INC.