

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 010124-TX
ORDER NO. PSC-01-1155-AS-TX
ISSUED: May 21, 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:

On January 29, 1997, TotalTel USA Communications, Inc. ("TotalTel" or "Company") obtained Florida Public Service Commission Alternative Local Exchange Company (ALEC) Certificate Number 4771. On February 22, 2000, our staff opened Docket No. 000235-TX against TotalTel to initiate show cause proceedings 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. Our staff filed a recommendation to order TotalTel to show cause in writing why it should not be fined \$10,000 or have its ALEC certificate canceled for apparent violation of Section 364.183(1), Florida Statutes, for presentation on March 16, 2000. On May 23, 2000, we issued Order No. PSC-00-1023-AS-TX approving a \$3,500 settlement offer submitted by TotalTel in Docket No. 000235-TX. We received TotalTel's check for \$3,500 to settle Docket No. 000235-TX on June 5, 2000.

DOCUMENT NUMBER-DATE

06354 MAY 21 2001

FPSC-RECORDS/REPORTING

On July 6, 2000, TotalTel was mailed a certified letter requesting information contained in company records for inclusion in the 2000 local competition report to the Legislature. The information was to be provided by August 11, 2001. On July 11, 2000, TotalTel signed the return receipt from the July 6, 2000, certified letter. On January 30, 2001, our staff opened this docket to initiate show cause proceedings against TotalTel for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records for failure to provide staff with information contained in company records necessary for inclusion in the 2000 local competition report to the Legislature. This docket was presented to us at the Agenda Conference on February 20, 2001. On March 13, 2001, we issued Show Cause Order No. PSC-01-0592-SC-TX requiring TotalTel to show cause why it should not be fined or have its certificate canceled for violation of Section 364.183(1), Florida Statutes. TotalTel submitted an offer of settlement on April 3, 2001.

Our staff sent a certified letter requesting information contained in company records to TotalTel on July 6, 2000, and requested a written response by August 11, 2000. Our staff did not receive the requested information from TotalTel in apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. Therefore, on January 30, 2001, our staff opened this docket to require TotalTel to show cause why it should not be fined or have certificate number 4771 canceled, pursuant to Section 364.285, Florida Statutes. On March 13, 2001, Show Cause Order No. PSC-01-0592-SC-TX was issued requiring the company to show cause why it should not be fined or have its certificate canceled for violation of Section 364.183(1), Florida Statutes.

On April 3, 2001, TotalTel submitted its settlement offer. In its settlement offer, TotalTel explained that it did not respond to our staff's questionnaire because it is not yet providing service in Florida and believed it did not need to do so. It also did not provide the proper contact information to this Commission. To settle this docket, it stated that it is now aware of its reporting requirements and proposed the following:

- A monetary settlement of \$7,000;

ORDER NO. PSC-01-1155-AS-TX

DOCKET NO. 010124-TX

PAGE 3

- To ensure that the company contact information filed with the Commission is correct; and
- To file all required reports with the Commission in a timely manner.

In the settlement offer for the previous show cause action against TotalTel (Docket No. 000235-TX), the company stated that its failure to provide the data requested for inclusion in the 1999 local competition report to the Legislature was the result of an administrative error. To correct this, it stated that future requests would be complied with in a timely manner.

However, for the 2000 local competition report to the Legislature, the company's failure to respond was a result of its failure to promptly update its contact information. With the correction of these deficiencies, we believe that future occurrences of this apparent violation will be avoided.

We believe the terms of the settlement agreement as summarized are fair and reasonable, and we hereby approve TotalTel's offer of settlement. 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. We will 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 this Order, certificate number 4771 all be canceled administratively. We are vested with jurisdiction over this matter pursuant to Sections 364.183, 364.285, and 364.386, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TotalTel USA Communications, Inc.'s settlement offer is hereby approved as set forth in the body of this Order. It is further

ORDERED that if TotalTel USA Communications, Inc. fails to pay in accordance with the terms of its settlement offer, certificate number 4771 should be canceled administratively, and this docket should be closed. It is further

ORDER NO. PSC-01-1155-AS-TX
DOCKET NO. 010124-TX
PAGE 4

ORDERED that TotalTel USA Communications, Inc. shall remit its voluntary contribution \$7,000 within 10 days from the issuance date of this Order. It is further

ORDERED that if TotalTel USA Communications, Inc. remits its voluntary contribution of \$7,000 within 10 days from the issuance date of this Order, that this docket should be closed.

By ORDER of the Florida Public Service Commission this 21st day of May, 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.

ORDER NO. PSC-01-1155-AS-TX
DOCKET NO. 010124-TX
PAGE 5

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.