

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 15, 2012

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Harris) *AT*
Division of Regulatory Analysis (Williams) *CH Ali*

RE: Docket No. 110082-TP – Initiation of show cause proceedings against American Dial Tone, Inc., All American Telecom, Inc., Bellerud Communications, LLC, BLC Management LLC d/b/a Angles Communication Solutions, and LifeConnex Telecom, LLC for apparent violations of Chapter 364, F.S., Chapters 25-4 and 25-24, F.A.C., and FPSC Orders. *nm*

AGENDA: 03/27/12 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\110082.RCM.DOC

Case Background

On June 28, 2010, staff opened Docket No. 100340-TP to investigate Associated Telecommunications Management Services' ("ATMS") compliance with certain Lifeline, Eligible Telecommunications Carrier ("ETC"), and universal service requirements applicable to ATMS companies doing business in Florida. These companies include American Dial Tone, Inc. ("ADT"), All American Telecom, Inc. ("All American Telecom"), Bellerud Communications, LLC ("Bellerud"), BLC Management LLC d/b/a Angles Communication Solutions ("BLC"), and LifeConnex Telecom, LLC ("LifeConnex").

DOCUMENT NUMBER-DATE

01550 MAR 15 12

FPSC-COMMISSION CLERK

As a result of this investigation, on March 24, 2011, staff opened Docket No. 110082-TP, in order to recommend the initiation of show cause proceedings against ATMS. On March 29, 2011, staff filed a combined recommendation in Dockets 100340-TP and 110082-TP, recommending denial of ATMS' Petition for Mediation and initiating show cause proceedings against the five ATMS companies. The March 29, 2011 staff recommendation concluded that the companies were each in apparent willful violation of one or more Florida Statutes and Commission Rules and Orders. Staff recommended the show cause proceedings include the cancellation of all companies' Competitive Local Exchange Carrier ("CLEC") certificates; the revocation of ADT's ETC designation; and the imposition of fines.

Subsequent to the filing of the recommendation, staff and ATMS were able to agree on a Framework for Settlement ("Settlement Agreement") which met the goal of a show cause, that is, ensuring compliance with Florida Statutes and Commission Rules. Accordingly, on May 6, 2011, ATMS filed a Motion for Approval of Offer of Settlement Agreement. On June 16, 2011, the Commission issued Order No. PSC-11-0259-AS-TP, which approved the Settlement Agreement and closed Docket No. 100340-TP (the investigation docket).

As part of the Settlement Agreement, ATMS surrendered all its Florida CLEC certificates, save one, American Dial Tone, Inc. In addition, ATMS agreed to make a \$2 Million payment to the State's General Revenue Fund in at least 8 quarterly increments of \$250,000.¹ Pursuant to the Order, Docket No. 110082-TP remained open to process the quarterly settlement payments as well as to monitor ongoing compliance with the terms of the Settlement Agreement during the four year period of the agreement.

As required by Order No. PSC-11-0259-AS-TP, ATMS made its initial \$250,000 payment on August 2, 2011. However, ATMS failed to make the second quarterly installment payment due October 28, 2011. In addition, on October 5, 2011, staff notified ATMS it was in apparent violation of the terms of the Settlement Agreement, due to its failure to respond to a staff data request. As a result of this violation, ADT was required to take action to correct the violation and was subject to an automatic assessment of \$25,000. ADT failed to take corrective action and make this \$25,000 payment. As a result of these failures to remit payment, as well as take corrective action as required by the Settlement Agreement, ADT's CLEC certificate was administratively cancelled effective November 30, 2011. The Commission has jurisdiction pursuant to Sections 120.80(13)(d), 364.10, 364.107, 364.183, 364.285, 364.33, and 364.386, Florida Statutes.

¹ The Settlement Agreement provided that after the first 8 quarterly payments, further payments would be suspended pending a review of the company's compliance with the terms of the Settlement Agreement. If the Commission had found that ATMS was not in material compliance with the terms of the Settlement Agreement, then the payments could have been resumed and any suspended payments may have become due and payable.

Discussion of Issues

Issue 1: Should this docket be closed?

Recommendation: Yes. Because there is no further action to be taken, this docket should be closed. (Harris)

Staff Analysis: As explained in the Case Background, on March 24, 2011, Docket No. 110082-TP was opened to process a staff-initiated show cause proceeding against five (5) telecommunications companies owned by ATMS. On June 16, 2011, the Commission issued Order No. PSC-11-0259-AS-TP, approving a settlement agreement with ATMS, which resolved the issues prompting the show cause proceeding. As part of the agreement, among other conditions, ATMS surrendered all its Florida Certificates except American Dial Tone, Inc. (ADT). In addition, ATMS agreed to make a \$2 million payment to the State's General Revenue Fund in at least 8 quarterly increments of \$250,000. Pursuant to the Order, the docket was to remain open to process the quarterly payments and monitor ATMS's compliance with the settlement agreement over a four year period.

ATMS failed to make the second quarterly installment payment of \$250,000 due October 28, 2011. In addition, due to its failure to respond to a staff data request, ADT was required to take corrective action and was subject to an automatic assessment of \$25,000; ADT failed to make this payment also. As a result of these failures to remit payment and failure to take corrective action, pursuant to the terms of the settlement agreement, ADT's CLEC certificate was administratively cancelled on November 30, 2011.

With the cancellation of ADT's CLEC Certificate, there are no longer any ATMS telecommunications companies subject to the Commission's jurisdiction operating in Florida. In addition, there are no further company operations to be monitored for compliance, and there is no further enforcement action that can be taken by the Commission. Staff recommends that the unpaid \$1,750,000 balance from the Settlement Agreement, as well as the \$25,000 automatic assessment, be referred to the Florida Department of Financial Services for further collection efforts. With that referral, staff believes Docket No. 110082-TP may now be closed, as there is no remaining action for the Commission to take, there are no more payments to be processed, and there are no other conditions of the settlement agreement to be monitored.