

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: January 12, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Competitive Markets & Enforcement (Isler)
Office of the General Counsel (Scott)

RE: Docket No. 050534-TX – Request for cancellation of CLEC Certificate No. 6070 by Atlantic.Net Broadband, Inc. d/b/a Dolfo.Net, effective August 5, 2005.

AGENDA: 01/24/06 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\050534.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission vacate Order No. PSC-05-1017-PAA-TX, issued on October 19, 2005, as listed on Attachment A?

Recommendation: Yes, Order No. PSC-05-1017-PAA-TX should be vacated. (Isler, Scott)

Staff Analysis: The company mistakenly requested cancellation of its certificate. Therefore, vacating the Commission's order is appropriate. See attached proposed Order.

Docket No. 050534-TX

Date: January 12, 2006

Issue 2: Should the Commission acknowledge the name change on the company's CLEC Certificate No. 6070 to Atlantic.Net Broadband, Inc.?

Recommendation: Yes, the company's name should be changed to Atlantic.Net Broadband, Inc. (Isler, Scott)

Staff Analysis: See attached proposed Order.

Issue 3: Should this docket be closed?

Recommendation: Yes, if no protest is filed and upon issuance of a Consummating Order. (Scott)

Staff Analysis: The Order issued from this recommendation will become final upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action Order. The docket should then be closed upon issuance of a Consummating Order.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for cancellation of CLEC Certificate No. 6070 by Atlantic.Net Broadband, Inc. d/b/a Dolfo.Net, effective August 5, 2005.	DOCKET NO. 050534-TX ORDER NO. ISSUED:
---	--

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO R. ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION ORDER VACATING
ORDER NO. PSC-05-1017-PAA-TX AND ACKNOWLEDGING NAME CHANGE

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.

Atlantic.Net Broadband, Inc. d/b/a Dolfo.Net currently holds Certificate No. 6070, issued by the Commission on April 17, 1999, authorizing the provision of competitive local exchange company (CLEC) service. On August 4, 2005, this Commission received a letter dated August 1, 2005, from Mr. Paul Ayoub, Chief Financial Officer, requesting withdrawal of "all Public Service Commission certificates held with the State of Florida." Mr. Ayoub's letter went on to state that "Dolfo.Net is no longer in business." The company paid the outstanding Regulatory Assessment Fee, plus the 2005 Regulatory Assessment Fee. Therefore, Docket No. 050534-TX was established. On October 19, 2005, Order No. PSC-05-1017-PAA-TX was issued, which acknowledged the company's request for a voluntary cancellation.

Atlantic.Net Broadband, Inc. d/b/a Dolfo.Net complied with the provision of Rule 25-24.820(2), Florida Administrative Code, by providing adequate notice in writing of its request for cancellation of its CLEC certificate and by submitting its Regulatory Assessment Fee (RAF) for the years 2004 and 2005. Accordingly, we found it appropriate to cancel CLEC Certificate No. 6070, effective August 5, 2005. We are vested with jurisdiction over this matter pursuant to Section 364.335 and 364.337, Florida Statutes.

On November 10, 2005, Mr. Stephen Towler, Carrier Relations Manager for the company, contacted our staff and advised that the original request for cancellation was submitted in error and instead should have been a request to remove the fictitious name. On the same date, Mr. Towler filed a letter reiterating the above by requesting that the company's name on its CLEC certificate be changed to remove the d/b/a Dolfo.Net. Based on this information, the Consummating Order was not issued.

Accordingly, we hold that Order No. PSC-05-1017-PAA-TX, issued on October 19, 2005, shall be vacated. Atlantic.Net Broadband, Inc. d/b/a Dolfo.Net's name on its certificate shall be changed to reflect that the d/b/a is hereby removed and the new name shall be Atlantic.Net Broadband, Inc. We are vested with jurisdiction over this matter pursuant to Sections 364.335 and 364.337, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. PSC-05-1017-PAA-TX, issued on October 19, 2005, is hereby vacated. It is further

ORDERED that the name on CLEC Certificate No. 6070 shall be changed to Atlantic.Net Broadband, Inc.

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.

By ORDER of the Florida Public Service Commission this _____ day of _____, _____.

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

(S E A L)

KS

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 _____.

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.