

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone for apparent violation of Section 364.183(1), F.S., Access to Company Records.

DOCKET NO. 000218-TX  
ORDER NO. PSC-00-2031-PAA-TX  
ISSUED: June 12, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER

NOTICE OF PROPOSED AGENCY ACTION  
ORDER REJECTING RESPONSE AND CANCELING CERTIFICATE NO. 5620

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.

On April 25, 2000, Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone (Second Chance Phone) submitted its response to the Order to Show Cause No. PSC-00-0679-SC-TX. In its response, Second Chance Phone maintained that it sent the requested information on November 7, 1999, and provided a copy of its response to the Commission's request for information contained in company records. Air bill No. 4357727183 was attached to support Second Chance Phone's claim.

Examination of the air bill led us to believe the air bill was, in fact, associated with Second Chance Phone's submission of documents pertaining to another matter. Our staff contacted the

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shipping company, Airborne Express, and requested a faxed copy of its air bill No. 4357727183. Upon comparison of the air bill sent by Second Chance Phone and a copy of the same air bill provided by Airborne Express, it appears that Second Chance Phone intentionally modified the original air bill to make it appear as if it was responding to staff's data request in an attempt to circumvent further legal action. The air bill copy from Second Chance is addressed to "W. DHASSLER" and indicates that the package contained information related to "EXCHANGE INFORMATION." However, a copy of the original air bill, as submitted by Airborne Express, indicates that it was addressed to "RAY KENNEDY" and the contents were in regard to "dba INFORMATION" which was the subject of a previous matter between this Commission and the company, but totally unrelated to the data request. Both air bills are dated November 7, 2000.

Moreover, at the June 6, 2000, agenda conference, Mr. Mike Rodgers, president of Second Chance Phone, confirmed the document addressed to "W. DHASSLER" was altered. Based on the foregoing, we reject Second Chance Phone's response to Order No. PSC-00-0679-SC-TX and find that Second Chance Phone's Certificate No. 5620 should be canceled.

Second Chance Phone has a significant prepaid customer base in Florida that would be adversely affected if Second Chance Phone ceased providing service without proper advance notification. Therefore, Second Chance Phone shall notify its customers in writing to change their local telephone service to another provider. All customers shall be notified between 15 and 45 days from the date the Consummating Order is issued. The notification shall inform the customers that Second Chance Phone will cease providing service 30 days from the end of the customer notification period, i.e. 75 days from the date of the issuance of the Consummating Order, and that they should obtain local telephone service from another provider. Second Chance Phone's notification letter shall be submitted to Commission staff for review and approval 10 days after the issuance of the Consummating Order.

Finally, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in Sections 775.082 or 775.083, Florida Statutes. Each applicant for a certificate is required to sign an affidavit acknowledging that it is illegal to make a false statement to a public employee. We find that the

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apparently fraudulent air bill provided to our staff by Second Chance Phone rises to the level contemplated by Section 837.06, Florida Statutes. Therefore, we find this matter shall be referred to the State's Attorney for prosecution under Section 837.06, Florida Statutes.

It is therefore,

ORDERED by the Florida Public Service Commission that Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone's response to Commission Order No. PSC-00-0679-SC-TX shall be rejected as not acceptable and apparently fraudulent. It is further

ORDERED that Alternative Telecommunications Services, Inc. D/b/a Second Chance Phone's Certificate No. 5620 shall be canceled. It is further

ORDERED that Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone shall notify its customers in writing to change their local telephone service to another provider. All customers shall be notified between 15 and 45 days from the date the Consummating Order is issued. The notification shall inform the customers that Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone will cease providing service 30 days from the end of the customer notification period, i.e. 75 days from the date of the issuance of the Consummating Order, and that they should obtain local telephone service from another provider. Alternative Telecommunications Services, Inc. d/b/a Second Chance Phone's notification letter shall be submitted to Commission staff for review and approval ten days after the issuance of the Consummating Order. It is further

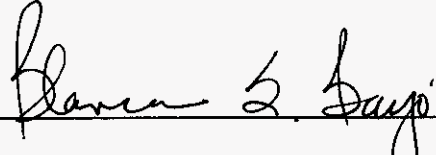
ORDERED that this matter shall be referred to the State's Attorney for prosecution under Section 837.06, Florida Statutes. It is further

ORDERED that any person whose substantial interests are affected will have 21 days from the issuance of the PAA Order to file a protest. If no protest is filed within the protest period, the Order shall become final upon the issuance of the Consummating Order and this docket should remain open pending the completion of customer notification and service discontinuance. Seventy-five days after the issuance of the Consummating Order, Certificate No.

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5620 shall be canceled and this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 12th day of June, 2000.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

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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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 3, 2000.

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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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.