

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Smart City Networks for apparent violation of Section 364.183(1), F.S., Access to Company Records.

DOCKET NO. 000215-TX
ORDER NO. PSC-00-1134-AS-TX
ISSUED: June 22, 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

ORDER APPROVING SETTLEMENT OFFER

BY THE COMMISSION:

On March 13, 1999, Smart City Networks (Smart City) obtained from this Commission Alternative Local Exchange Company Certificate Number 5795. Thereafter, on June 25, 1999, our staff mailed a certified letter to Smart City requesting information necessary for inclusion in the local competition report we are required to submit in accordance with Section 364.386, Florida Statutes. Our staff requested a response by August 6, 1999. On July 6, 1999, Smart City signed for the certified letter. Smart City did not, however, respond to the letter.

On December 6, 1999, our staff sent a second certified letter asking Smart City to respond to the data request by no later than December 22, 1999. Again, Smart City did not respond. Therefore, on February 22, 2000, this docket was opened to investigate whether Smart City should be required to show cause why it should not be fined or have its certificate canceled for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.

On April 10, 2000, we issued Order No. PSC-00-0673-SC-TX, requiring Smart City to show cause why it should not be fined or have its certificate cancelled for apparent violation of Section 364.183(1), Florida Statutes. Smart City responded to the Show

DOCUMENT NUMBER-DATE

07603 JUN 22 8

FPSC-RECORDS/REPORTING

ORDER NO. PSC-00-1134-AS-TX
DOCKET NO. 000215-TX
PAGE 2

Cause Order on May 1, 2000. Subsequently, on May 16, 2000, Smart City submitted an offer to settle this case, which is attached and incorporated in this Order as Attachment A.

In its settlement offer, Smart City proposes the following: 1) to pay a monetary settlement of \$1,000; and 2) to establish procedures that will enable it to adhere to its reporting and compliance requirements to the Commission in the future.

Upon consideration, we find that the terms of the settlement offer are fair and reasonable. Therefore, we hereby accept Smart City's offer of settlement. The \$1,000 contribution shall be received by this Commission within 10 business days from the issuance date of this Order and shall identify the docket number and company name. We shall 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.

This docket shall remain open pending the remittance of the \$1,000 voluntary contribution. Upon remittance of the settlement payment, this docket shall be closed. If the company fails to pay in accordance with the terms of this Order, the company's certificate shall be canceled administratively, and this docket shall be closed.

It is therefore

ORDERED by the Florida Public Service Commission that the settlement offered by Smart City Networks which, by reference, is incorporated herein as Attachment A, is accepted as set forth in the body of this Order. It is further

ORDERED that Smart City Networks shall remit to this Commission the \$1,000 contribution within 10 business days from the issuance date of this Order. It is further


ORDERED that the contribution shall be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. It is further

ORDERED that upon remittance of the settlement contribution, this docket shall be closed. It is further

ORDER NO. PSC-00-1134-AS-TX
DOCKET NO. 000215-TX
PAGE 3

ORDERED that if Smart City Networks fails to pay in accordance with the terms of this Order, the company's certificate shall be canceled administratively, and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd day of June, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

TV

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.

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.

David B. Erwin
Attorney At Law

127 Riversink Road
Crawfordville, Florida 32327

Telephone 850.926.9331
Telecopier 850.926.8448
dberwin@wordnet.att.net

May 15, 2000

MAY 16 2000

Tim Vaccaro
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

In re: Docket No. 000215-TX- Show Cause Against Smart City Networks

Dear Mr. Vaccaro:

On May 1, 2000, I responded to Show Cause Order No. PSC-00-0673-SC-TX, on behalf of Smart City Networks. Even though Smart City Networks does not believe that the company refused to comply with or willfully violated Section 364.183(1), Florida Statutes, or any rule or order of the Commission, Smart City Networks is willing to offer a settlement to resolve this docket.

Smart City Networks offers to pay the lump sum of \$1,000.00 and to establish procedures for the receipt of information to preclude any further occurrences of the sort objected to in the Show Cause Order issued against the company.

Smart City Networks submits that there is no justification to fine the company more than the amount offered in settlement. Anything more would be disproportionate to the offense alleged, particularly in view of the fact that Smart City Networks has not yet engaged in business in Florida, has earned no revenue from the conduct of operations in the state and is now aware of the serious nature of not responding to data requests.

It is my understanding that this offer will be taken to the Commission at a regularly scheduled Agenda Conference.

Sincerely,



David B. Erwin

cc: Gordon Mills