



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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RECORDS AND REPORTING

DATE: MAY 4, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (VACCARO) *W*
DIVISION OF COMMUNICATIONS (M. WATTS) *W*

RE: DOCKET NO. 000231-TX - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST ERNEST COMMUNICATIONS, INC. FOR APPARENT VIOLATION OF SECTION 364.183(1), F.S., ACCESS TO COMPANY RECORDS.

AGENDA: 05/16/00 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\000231.RCM

CASE BACKGROUND

- November 3, 1998 - Ernest Communications, Inc. (ECI) obtained Florida Public Service Commission Alternative Local Exchange Company Certificate Number 5722.
- June 25, 1999 - Staff mailed a certified letter requesting information necessary for inclusion in the local competition report required of the Commission by Section 364.386, Florida Statutes. Staff requested a response by August 6, 1999.
- July 6, 1999 - ECI signed for and received the certified letter.
- December 6, 1999 - Staff sent a second certified letter requesting ECI respond to the data request no later than December 22, 1999.

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FPSC-RECORDS/REPORTING

DATE: May 4, 2000

- December 9, 1999 - ECI signed for and received the second certified letter.
- February 22, 2000 - After receiving no response to its June 25, 1999 and December 6, 1999 certified letters, staff opened this docket to investigate whether ECI 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.
- April 10, 2000 - Commission Order No. PSC-00-0671-SC-TX was issued to show cause ECI for apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records.
- April 27, 2000 - ECI submitted an offer to settle this case. (Attachment A, page 4)

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by ECI to resolve the apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records?

RECOMMENDATION: Yes. The Commission should accept the company's settlement proposal. Any contribution should be received by the Commission within ten business days from the issuance date of the Commission Order and should identify the docket number and company name. The Commission should 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. **(M. Watts)**

STAFF ANALYSIS: Staff sent a certified letter requesting information contained in company records to ECI on June 25, 1999, and requested a written response by August 6, 1999. Staff did not receive the requested information from ECI. Staff sent a second certified letter requesting the information to ECI on December 6, 1999, and requested a written response by December 22, 1999. Staff did not receive the requested information from ECI in apparent violation of Section 364.183(1), Florida Statutes, Access to Company Records. Therefore, on February 22, 2000, staff opened this docket to require ECI to show cause why it should not be fined

DATE: May 4, 2000

or have its certificate canceled, pursuant to Section 364.285, Florida Statutes.

On April 27, 2000, in response to Commission Order No. PSC-00-0671-SC-TX, ECI submitted its settlement (Attachment A, page 4). In its settlement offer, ECI proposed the following:

- A monetary settlement of \$4,000
- To adhere to its reporting and compliance requirements to the Commission in the future. It stated that it is fully aware of its responsibilities and obligations and it corrected an employee problem that resulted in ECI falling behind in some of its reporting and compliance requirements.

Staff believes the terms of the settlement agreement as summarized in this recommendation are fair and reasonable, and we support ECI's offer of settlement. Any contribution should be received by the Commission within ten business days from the issuance date of the Commission Order and should identify the docket number and company name. The Commission should 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.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. With the approval of Issue 1, this docket should remain open pending the remittance of the \$4,000 voluntary contribution. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of the Commission Order, the company's certificate should be canceled administratively, and this docket should be closed. **(Vaccaro)**

STAFF ANALYSIS: This docket should remain open pending the remittance of the \$4,000 voluntary contribution. Upon remittance of the settlement payment, this docket should be closed. If the company fails to pay in accordance with the terms of the Commission Order, the company's certificate should be canceled administratively, and this docket should be closed.



04/26/00

Ms. Blanca Bayo
Director, Division of Records and Reporting
State of Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

APR 27 2000
STATE OF FLORIDA PUBLIC SERVICE COMMISSION
LEGAL DIVISION

Docket Number-000231-TX – Ernest Communications, Inc.

Ms. Bayo,

I am writing to address a notice that our company received dated 4/10/00 by the State of Florida Public Service Commission that gives us 21 days to respond to the allegations raised in the above-referenced Docket Number.

In conversations and communications with your Staff Counsel, Tim Vaccaro, I raised several issues that I believe exempts our company from having to follow through with the Show Cause proceedings, or pay a fine (copy attached). However, in order to avoid any further unnecessary time and expense for either of our staffs, Ernest Communications, Inc. would like to offer a settlement of \$4,000.00 to put this unfortunate incident to rest. I would also like to once again offer you assurance that this single incident was the result of an isolated employee problem that has been rectified. Furthermore, you can be certain that ECI is fully aware of its responsibilities and obligations as a corporate citizen of the State of Florida, and intends to fully adhere to those requirements.

Thanks for your time and attention to this matter, and please feel free to contact me if you have any questions, or need further information.

Sincerely,

Paul Masters
President

cc: Tim Vaccaro

- WFA _____
- ADP _____
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STATE OF FLORIDA PUBLIC SERVICE COMMISSION