

ORIGINAL



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HEARING DIVISION PROPOSED AMENDMENT #1

TIME/DATE PREPARED: December 9, 2011/3:10 p.m.

COMPANY: Crexendo Business Solutions, Inc.

AGENDA ITEM NO.: U-10

DOCKET NO.: T-20737A-10-0144

OPEN MEETING:DATE: Dec. 13 & 14, 2011

Page 3, Line 4: INSERT New paragraphs:

“On November 14, 2011, the Hearing Division docketed a Recommended Opinion and Order (“ROO”), conditionally approving Crexendo’s application subject to compliance with Staff’s conditions, including the procurement of an \$1 million performance bond or ISDLC.

On December 1, 2011, Lloyd D. Rickenbach, attorney-at-law, filed public comments regarding Crexendo’s application, which stated that Crexendo had failed to disclose pertinent and relevant information in its application filed with the Commission. The filing cites nine litigation matters Mr. Rickenbach believes were not disclosed in Crexendo’s application.

On the same date, the Commission, during the December 1, 2011, Open Meeting, postponed the vote on the ROO, pending further review of the comments filed by Mr. Rickenbach. By Procedural Order issued on the same date, Staff and Crexendo were directed to review Mr. Rickenbach’s comments and to file responses to the information raised in the letter.

On December 7, 2011, Crexendo filed its response to Mr. Rickenbach’s public comments. Crexendo’s response states that the litigation referred to in Mr. Rickenbach’s public comments are related to StoresOnline, an affiliate of Crexendo, and although

Arizona Corporation Commission

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Crexendo was not named in any of the lawsuits, Crexendo provided extensive information to the Commission regarding the StoresOnline litigation. Further, Crexendo states that the “principal new matter brought forward by Mr. Rickenbach involves litigation where he [Mr. Rickenbach] is the attorney for the plaintiff.” Crexendo’s response states that nothing in Mr. Rickenbach’s letter should change the conclusions reached in the ROO, conditionally granting the CC&N.

On December 8, 2011, Staff filed comments regarding Mr. Rickenbach’s letter. Staff states that it was previously aware of 20 of the 29 StoresOnline litigation cases identified in Mr. Rickenbach’s letter; that three of the remaining nine had previously been disclosed; that five of the remaining six have been resolved; and that the one pending matter was filed on March 20, 2009, in which Mr. Rickenbach represents the plaintiff in that case. Staff further states that although the additional information is important, it does not materially change Staff’s recommendation to deny Crexendo’s application, or alternatively if the Commission approves the application, that Crexendo be required to meet Staff’s additional conditions.”

Page 16, Line 25

DELETE: “that”

Page 17, Line 8

DELETE: “all”

INSERT: “After that “the Stores Online litigation in fourteen different states has been resolved by way of a Settlement Agreement, Final Judgment of Stipulation, Consent Judgment, Final Judgment and Consent Decree, Consent Order and Permanent Injunction, or an Assurance of Voluntary Compliance.” “Staff states there is one pending case involving

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StoresOnline, which was disclosed in Mr. Rickenbach's letter and in which Mr. Rickenbach is the attorney representing the plaintiff in that case."

Page 17, Line 10 INSERT New Finding of Fact:

"Crexendo's demonstrated inability to thoroughly review information relevant to its application (the StoresOnline litigation) and to accurately submit that information to the Commission raises concerns. Crexendo has acknowledged this, and has stated that it will retain local counsel to help it to navigate its compliance issues."

Page 17, line 25 INSERT New Sentence:

"In light of Crexendo's demonstrated inability to thoroughly review and disclose information relevant to its application before this Commission, we find that Crexendo should retain an Arizona licensed attorney, for a period of at least five (5) years, who shall be responsible for handling compliance and regulatory issues before this Commission."

Page 20, Line 1 INSERT New Ordering Paragraph:

"IT IS FURTHER ORDERED that all regulatory filings and appearances before the Arizona Corporation Commission by Crexendo Business Solutions, Inc. shall, for a period of at least five (5) years from the effective date of this Decision, be made by an Arizona licensed attorney."

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_____ Failed _____	_____ Not Offered _____	_____ Withdrawn _____