

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Amendments to) DOCKET NO. 950561-TL
Rules 25-24.600, F.A.C.,) ORDER NO. PSC-96-1079-FOF-TL
Application and Scope; 25-) ISSUED: August 21, 1996
24.610, F.A.C., Terms and)
Definitions; Rule Incorporated;)
25-24.620, F.A.C., Service)
Requirements for Companies)
Providing Operator Services; and)
Proposed Rules 25-24.640,)
F.A.C., Service Requirements for)
Call Aggregators; and 25-24.650,)
F.A.C., Rate and Billing)
Requirements for Call)
Aggregators)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER DENYING REQUEST FOR COMMISSION HEARING
BY EDGEWATER COMMUNICATIONS, EDGEWATER BEACH RESORT,
AND EDGEWATER BEACH RESORT MANAGEMENT, INC.

At its June 25, 1996, agenda conference, the Commission proposed amendments to rules and rules relating to call aggregators. Notice of the proposal was published in the Florida Administrative Weekly providing that written requests for hearing and written comments or suggestions on the rules must be received by the Commission no later than August 2, 1996. On August 2, 1996, Edgewater Communications (EC), Edgewater Beach Resort (EBR), and Edgewater Beach Resort Management, Inc. (EBM) (hereinafter sometimes collectively referred to as "Edgewater") filed a request for hearing and further requested under section 350.01(6), Florida Statutes, that the hearing be held before the full Commission.

Section 350.01(6), Florida Statutes, provides:

A majority of the commissioners may determine that the full commission shall sit in any proceeding. The public counsel or

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a person regulated by the Public Service Commission and substantially affected by a proceeding may file a petition that the proceeding be assigned to the full commission. Within 15 days of receipt by the commission of any petition or application, the full commission shall dispose of such petition by majority vote and render a written decision thereon prior to assignment of less than the full commission to a proceeding. In disposing of such petition, the commission shall consider the overall general public interest and impact of the pending proceeding, including but not limited to the following criteria: the magnitude of a rate filing, including the number of customers affected and the total revenues requested; the services rendered to the affected public; the urgency of the requested action; the needs of the consuming public and the utility; value of service involved; the effect on consumer relations, regulatory policies, conservation, economy, competition, public health, and safety of the area involved. If the petition is denied, the commission shall set forth the grounds for denial.

In its petition, Edgewater argues that the rule hearing before a Commission staff hearing officer will not allow the Commissioners direct contact with affected parties who should have the right to appear before the Commissioners, and that, since the transient exception policy affects so many people, the full Commission should hear the facts and make the decision as whether any changes should be made to the policy.

Having heard Edgewater's arguments and having reviewed the criteria set forth in the statute, we deny the request. We were aware of the policy issues raised by Edgewater at the time we proposed the rules. We find that a rulemaking proceeding before a staff hearing officer provides adequate opportunity for parties to build a record for review by the Commission. The full Commission will in turn render its decision based on the complete record developed.

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IT IS THEREFORE,

ORDERED that the request for a Commission hearing be denied for the reasons stated in the body of this order. It is further

ORDERED that the docket remain open so that staff can conduct a rule hearing pursuant to Commission rules.

BY ORDER of the Florida Public Service Commission this 21st day of August, 1996.



BLANCA BAYO, Director
Division of Records and Reporting

(S E A L)

DWC

Commissioners Clark and Garcia dissented.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 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 or sewer 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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.