

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920565-TC
cause proceedings against) ORDER NO. PSC-92-1399-FOF-TL
YAGER RESORT PROPERTIES, INC.) ISSUED: 12/2/92
for violation of Rule)
25-4.0161(2), F.A.C,)
Regulatory Assessment Fee)
Filing.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER RESOLVING SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Yager Resort Properties, Inc., (Yager) has been a certificated pay telephone service (PATS) provider since July 24, 1991. As a certificated PATS provider, Yager is subject to our jurisdiction pursuant to Chapter 364, Florida Statutes.

On August 27, 1992, we issued Order No. PSC-92-0888-FOF-TC (Order No. 0888) requiring Yager to show cause, in writing why its Certificate No. 2761 should not be cancelled for failure to timely file the Regulatory Assessment Fee Return/Annual Report Form for the period July 1, 1991 through December 31, 1991 as required by Rule 25-4.0161(2) Florida Administrative Code. On September 21, 1992, Yager filed a response to Order No. 0888.

Essentially, Yager's response appears to be an admission of the facts alleged, and a waiver of the right to a formal hearing.

Yager asserts that it had not received a Regulatory Assessment Fee Return/Annual Report form until early 1992. Yager fails to state a specific date of receipt of the form which was due on January 31, 1992. Yager further asserts that it is currently in compliance.

We have frequently ruled in the past that timely filing of the form is an essential element of the requirement. Furthermore, we have ruled that timely filing and reporting is an affirmative duty and is not dependent upon receipt of blank forms. The forms are

DOCUMENT NUMBER-DATE

14023 DEC -2 1992

REG. RECORDS / REPORTING

ORDER NO. PSC-92-1399-FOF-TL
DOCKET NO. 920565-TC
PAGE 2

provided as a convenience and a courtesy. Accordingly, Yager's assertion that it should not be fined fails.

We find that the penalties proposed in Order No. 0888 should be imposed. If Yager elects to voluntarily cancel its certificate or fails to timely respond to the Final Order, no fine should be imposed and Certificate No. 2761 should be cancelled. If Yager elects to pay the \$250 fine this docket should be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the penalties proposed in Order No. PSC-92-0888-FOF-TC are hereby imposed against Yager Resort Properties, Inc. It is further

ORDERED that if Yager Resort Properties, Inc. elects to voluntarily cancel its certificate, or fails to respond to this Order in a timely fashion, Certificate No. 2761 shall be cancelled, no fine imposed and this docket closed. It is further

ORDERED that if Yager Resort Properties pays the \$250 penalty this docket shall be closed. It is further

ORDERED that this docket shall remain open 30 days to permit the Yager Resort Properties, Inc. to respond.

By ORDER of the Florida Public Service Commission, this 2nd day of December, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ORDER NO. PSC-92-1399-FOF-TL
DOCKET NO. 920565-TC
PAGE 3

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.