

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

August 26, 1993

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS [LEWIS] *KL*
DIVISION OF LEGAL SERVICES [PIERSON] *RJ* *FLC*

RE : DOCKET NO. 930480-TC, APPLICATION FOR CERTIFICATE TO
PROVIDE PAY TELEPHONE SERVICE BY BAILEY'S GROCERY

AGENDA: SEPTEMBER 7, 1993

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\930480.RCM

CASE BACKGROUND

- On May 14, 1993, the Commission received an application for a certificate to provide pay telephone service from Mr. Leroy Bailey.
- The application contained some discrepancies and was incomplete. Staff had several telephone conversations with the applicant and wrote him three letters but was still unable to obtain the requested information.
- Because the applicant has not provided the requested information, Staff believes the following recommendation is appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should a certificate to provide pay telephone service be granted to Bailey's Grocery?

RECOMMENDATION: No.

STAFF ANALYSIS: Mr. Bailey indicated on the application that he wished to do business under the name of Bailey's Grocery. Staff reviewed the application and noted that Mr. Bailey had failed to provide proof of registration of the fictitious name of Bailey's Grocery as required by Section 865.09(3), Florida Statutes. Staff also noted that the Commission's records showed that in 1989, a pay

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phone certificate (2273) had been issued to a Bailey's Grocery at the same address and that the certificate had been cancelled in 1991 for failure to file an annual report.

Because of these concerns, Staff wrote Mr. Bailey on May 20, 1993, and explained that documentation of a fictitious name filing for Bailey's Grocery was needed in order to issue a certificate in that name. Staff requested a response by June 8, 1993. On June 9, 1993, Mr. Bailey provided a facsimile response which still did not provide a fictitious name registration number.

After speaking to the applicant by telephone, a fictitious name registration number was provided. However, the Division of Corporations stated that the number did not exist in their system and subsequent checks by Staff found no fictitious name filing under Bailey's Grocery. On June 22, 1993, Staff again wrote the applicant in an attempt to obtain a valid name for the issuance of the certificate. In this letter staff explained that failure to provide the requested information by July 20, 1993 would result in the docket being closed. On July 19, 1993, Mr. Bailey contacted Staff by phone and provided a corporate filing number which staff was also unable to verify. Mr. Bailey then decided that he would refile the application in his own name. Staff agreed and sent a blank application to Mr. Bailey certified mail on July 20, 1993. The certified mail receipt card was returned on July 26, 1993 and indicated that the letter was received and signed for by an agent for Mr. Bailey or Bailey's Grocery on July 22, 1993. In the letter Staff had requested that Mr. Bailey return the completed application no later than August 16, 1993. The application has not been returned.

The application filed by Mr. Bailey on May 14, 1993 is not complete. Staff's attempts to get additional information from Mr. Bailey in order to process the application and/or get him to complete a new application have been unsuccessful. Consequently, Staff has no choice but to recommend denial of the application for a certificate in the name of Bailey's Grocery.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, with the adoption of staff's recommendation in Issue 1, this docket should be closed.

STAFF ANALYSIS: Denial of the certificate will result in the issuance of a proposed agency action order. Provided no party files a timely protest to the order, this docket may be closed at the expiration of the protest period.