

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Labree Management, Inc. for apparent violation of Rule 25-24.640(1)(f), F.A.C., Service Requirements for Call Aggregators.

DOCKET NO. 001353-TI
ORDER NO. PSC-01-1014-FOF-TI
ISSUED: April 24, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

FINAL ORDER

BY THE COMMISSION:

BACKGROUND

By Order No. PSC-00-0695-PAA-TP, issued April 13, 2000, in Docket No. 971659-TP, we classified Labree Management, Inc. (Labree) as a call aggregator pursuant to Rule 25-24.610 (1)(a), Florida Administrative Code. On May 9, 2000, Consummating Order No. PSC-00-0921-CO-TP, was issued, which finalized Order No. PSC-00-0695-PAA-TP and closed Docket No. 971659-TP.

On May 15, 2000, we notified Labree of the results of our May 2, 2000, call aggregator inspection of Unit 1303 and inquiry about other matters regarding the Parc Corniche Resort. A response was due from the company no later than June 12, 2000.

After receiving no response to the May 15, 2000, correspondence, a certified letter was sent to Labree on June 19, 2000, reminding it that a response was required.

A response was received on July 7, 2000, from Labree's Counsel acknowledging that Labree Management, Inc. is providing

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call aggregator services to the public. On September 7, 2000, our staff engineer conducted a follow-up call aggregator inspection of Unit 1106 at the Parc Corniche Resort. The engineer inspected Unit 1106 and found that Labree had still not implemented the requirement to post information specified in parts 1,2,5,7,8 and 9 of Rule 25-24.640(1)(f), Florida Administrative Code. Because Labree was provided a copy of our call aggregator rules in our May 15 correspondence, we opened this docket to initiate Show Cause proceeding against Labree Management, Inc. for apparent violations of Rule 25-24.640(1)(f), Florida Administrative Code.

This Commission has jurisdiction pursuant to Section 364.285, 364.3376 Florida Statutes.

SHOW CAUSE

Rule 25-24.640(1)(f), Florida Administrative Code, states:

- (1) Every call aggregator shall:
- (f) Place a written notice in plain view, in the immediate vicinity of each telephone served by the call aggregator, which meets the requirements of Section 364.3376(5), Florida Statutes (1995), and also clearly states at least the following information:
1. Name of the company providing operator services as it appears on the certificate issued by the Commission;
 2. Instructions on how to reach the operator of the provider of local exchange telecommunications services;
 3. Instructions on how to reach emergency services;
 4. Instructions on how to place local and long distance calls;
 5. A toll-free number for refunds;
 6. The amount of any surcharge for local calls, long distance calls, directory assistance, or any other surcharges to be billed and collected by the call aggregator;
 7. If a surcharge applies whether or not the call is completed;
 8. If rate information for a local or long distance call is posted, the rate information shall be clearly separated and identified from the surcharge.
 9. The toll-free telephone number of the Florida Public Service Commission's Division of Consumer Affairs.

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Section 364.285, Florida Statutes, authorizes this Commission to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

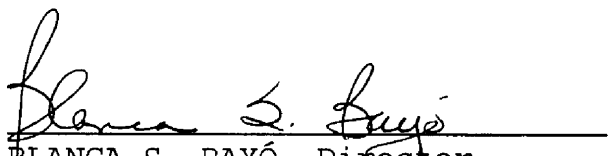
A recommendation was filed for the November 7, 2000 Agenda Conference. However, at the request of Labree, the Chairman deferred this docket to allow the company more time to work towards a settlement. During this period, we were informed that the Parc Corniche Resort is now under new management and the requirements of Rule 25-4.640(1)(f), Florida Administrative Code, are being met. The violations occurred during the negotiation and the transfer of management responsibilities from Labree to Emerson Communications. A third inspection was conducted on February 20, 2001 which confirmed that Rule 25-24.640(1)(f), Florida Administrative Code, had been satisfied. Under these circumstances we find that a show cause is no longer warranted and no further action is required and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that no further action is required. It is further

ORDERED that this docket shall be closed upon the issuance of this Order.

By ORDER of the Florida Public Service Commission this 24th day of April, 2001.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.