

State of Florida



Public Service Commission
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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECORDED - FPSC
AUG 14 11:10:44
COMMISSION
CLERK

DATE: 08/02/01

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF LEGAL SERVICES (CHRISTENSEN) *mz*
DIVISION OF COMPETITIVE SERVICES (CASEY, ILERI, BULECZA- *pk*
BANKS, FADIORA, DOWDS, AND SIMMONS) *sc*

RE: DOCKET NO. 001503-TP - COST RECOVERY AND ALLOCATION ISSUES
FOR NUMBER POOLING TRIALS IN FLORIDA.

AGENDA: 08/14/01 - REGULAR AGENDA - MOTION FOR RECONSIDERATION -
PRIOR TO HEARING - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\001503.RCM

CASE BACKGROUND

On September 29, 2000, this docket was established to address cost recovery and allocation issues for the number pooling trials in Florida. On December 12, 2000, staff held a workshop in this docket.

On February 16, 2001, Ms. Peggy Arvanitas filed a Petition for Leave to Intervene in the above-referenced docket. By Order No. PSC-01-0883-TP, issued April 6, 2001, Ms. Arvanitas' petition was denied. However, due to a clerical error, Ms. Arvanitas was inadvertently omitted from the mailing list. Thus, Order No. PSC-01-0883-TP was re-issued on April 18, 2001. On April 30, 2001, Ms. Arvanitas filed a Motion for Reconsideration of Re-issued Order No. PSC-01-0883-TP. Ms. Arvanitas timely filed her Motion in accordance with Rule 25-22.060, Florida Administrative Code.

DOCUMENT NUMBER-DATE

09404 AUG-20

FPSC-COMMISSION CLERK

DOCKET NO. 001503-TP
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The Commission is vested with jurisdiction pursuant to Sections 364.01 and 364.16, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should Ms. Peggy Arvanitas' Motion for Reconsideration of Re-issued Order No. PSC-01-0883-TP be granted?

RECOMMENDATION: No. Staff recommends that the Commission deny Ms. Peggy Arvanitas' Motion for Reconsideration of Re-issued Order No. PSC-01-0883-TP. (CHRISTENSEN)

STAFF ANALYSIS: As stated in the Case Background, on April 30, 2001, Ms. Peggy Arvanitas, filed a Motion for Reconsideration of Re-issued Order No. PSC-01-0833-PCO-TP, issued April 18, 2001. In support of her motion, Ms. Arvanitas realleges that her substantial interests will be affected by any cost recovery or allocation issues in the number pooling trials in Florida, specifically in area codes 727 and 813 where she lives and works. Ms. Arvanitas realleges that because the cost recovery docket impacts her work, she is suffering sufficient injury which is of sufficient immediacy to entitle her to a Section 120.57, Florida Statute, hearing.

By Order No. PSC-01-0833-PCO-TP, Ms. Arvanitas' allegations were found to be insufficient to support standing in this docket. Therefore, Ms. Arvanitas' Petition to Intervene in these proceedings was denied.

Rule 25-22.060(1)(a), Florida Administrative Code, governs Motions for Reconsideration and states, in pertinent part: "Any party to a proceeding who is adversely affected by an order of the Commission may file a motion for reconsideration of that order." (emphasis supplied) Although, Ms. Arvanitas is not a party of record in this docket, she is requesting reconsideration of her motion to intervene.

The standard of review for a Motion for Reconsideration is whether the motion identifies a point of fact or law which was overlooked or which we failed to consider in rendering the Order denying Ms. Arvanitas' intervention. See Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3d DCA 1959); citing State ex. rel. Jaytex Realty Co. v. Green, 105 So. 2d 817

(Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, Inc., at 317.

Staff believes that Ms. Arvanitas' Motion fails to identify a point of fact or law which was overlooked or which failed to be considered in rendering that Order. Moreover, Ms. Arvanitas' comments generally constitute reargument of matters that have already been considered and disposed of in the Order.

Based on the foregoing, staff recommends that the Commission deny Ms. Peggy Arvanitas' Motion for Reconsideration of Re-issued Order No. PSC-01-0883-TP.

DOCKET NO. 001503-TP
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ISSUE : Should this docket be closed?

RECOMMENDATION: No. This docket should remain open pending resolution of the cost recovery and allocation issues for the number pooling trials in Florida. (CHRISTENSEN)

STAFF ANALYSIS: This docket should remain open pending resolution of the cost recovery and allocation issues for the number pooling trials in Florida.