

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause against SANDESTIN)	DOCKET NO. 871185-TI
BEACH RESORT for operating as a)	ORDER NO. 21590
telephone company)	ISSUED: 7-21-89
)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER DENYING MOTION FOR RECONSIDERATION OF
ORDER NO. 20657, AMENDING ORDER NO. 20657
AND GRANTING A PARTIAL STAY OF ORDER NO. 20657.

BY THE COMMISSION:

BACKGROUND

Sandestin Beach Resort (Sandestin) is a development of regional impact located on Highway 98 just east of Destin, Florida. Sandestin's provision of telephone service to its employees, transient guests, and others has been the subject of Commission proceedings for at least the past three years. See Docket No. 861127-TI and Docket No. 861284-TI. Order No. 18274, issued October 12, 1987 set forth the Commission's position regarding Sandestin's provision of telephone service. Sandestin did not provision its service in accordance with the principles set forth in Order No. 18274, and as a result, the Commission proposed to fine Sandestin \$4,000 with \$2,000 suspended in Order No. 18936, issued March 2, 1988.

In early June of 1988 our staff visited Sandestin to determine whether it was complying with the terms of Order 18936. This visit revealed that Sandestin had complied with some provisions of Order No. 18936 and not complied with others. In Order No. 20657 issued January 25, 1989, the Commission suspended the remainder of the \$4,000 fine and ordered that Sandestin notify the Commission that it had received signed affidavits and rental agreements as set forth in the original order. Sandestin sought reconsideration, and a stay of Order No. 20657 on February 9, 1988. For the reasons

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enumerated below, we will deny the Motion for Reconsideration, but will amend Order No. 20657 and grant a partial stay of Order No. 20657 until such time as Sandestin comes into compliance with our Orders.

DISCUSSION

We need not undertake an extensive discussion of Sandestin's past repeated violations of Florida law. See Order No. 18274, issued October 12, 1987 at pages 2-3; Order No. 18939, issued March 2, 1988 at page 2; Order No. 20657, issued January 25, 1989. We do wish to make absolutely clear that failure by Sandestin to comply precisely with the terms of this Order will subject Sandestin to a substantial fine.

At the outset, two modifications should be made to Order No. 20657. These modifications relate to verification of transient status as it relates to end users of telephone service and telephone service to employees. The burden of determining whether an individual rental unit is in fact "transient" pursuant to Commission policy is upon Sandestin. Individual unit owners will not be required to sign an affidavit, but must be in the Sandestin rental program in order to continue to receive Sandestin telephone service. In the absence of a signed rental agreement within thirty days of the date of this Order, Sandestin will terminate telephone service and inform the unit owners of the availability of service from Central Telephone Company of Florida (Centel).

The second modification deals with telephone service to certain employees. In Order No. 20657 the Commission allowed Sandestin to provide home phone service to four key executives provided they also took residential service from Centel. Except for the requirement of taking service from Centel, no other restrictions will be placed upon Sandestin's provision of telephone service in this instance. In other words, these enumerated key employees may utilize Sandestin's services for long distance service as determined by Sandestin.

In its Motion for Stay, Sandestin requests a "practical time limit" to comply with Order No. 20657. Sandestin shall have thirty (30) days from the date of this Order to notify the Commission in writing that each rental unit served by Sandestin's telephone system is in Sandestin's rental program and that Sandestin has received a signed rental agreement.

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Sandestin shall discontinue telephone service to other rental units not in the rental program within thirty (30) days of the date of this Order. Sandestin has been on notice of this requirement since at least September 6, 1988. Sandestin was again placed on notice by virtue of our vote on January 3, 1989. Failure by Sandestin to meet the time limits herein will result in a substantial fine.

Sandestin shall report to this Commission within sixty (60) days of the date of this Order the final number of rental units served and the number of units terminated and referred to Centel. Further, Sandestin shall verify that no transient unit is taking Sandestin telephone service without a signed rental agreement. This docket will be closed upon total and complete compliance with the terms of this Order. Therefore, based on the foregoing, it is

ORDERED that Order No. 20657 be modified to not require affidavits from the owners of individual rental units. It is further

ORDERED that Sandestin Beach Resort be allowed to provide telephone service to four key management personnel provided those individuals also subscribe to local telephone service provided by Central Telephone Company of Florida. It is further

ORDERED that Sandestin Beach Resort provide telephone service only to transient end users that have executed a rental agreement with Sandestin Beach Resort. It is further

ORDERED that Sandestin Beach Resort discontinue provision of telephone service to all unit owners not in the rental program within thirty (30) days of the date of this ORDER. It is further

ORDERED that Sandestin Beach Resort inform customers whose service is discontinued of the availability of service from Central Telephone Company of Florida, Inc. It is further

ORDERED that Sandestin Beach Resort's Motion for Stay is granted to the extent discussed in the body of this Order. It is further

ORDERED that Sandestin Beach Resort Motion for Reconsideration is denied. It is further

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ORDERED that Sandestin Beach Resort file the reports listed in the body of this Order within sixty days of the date of this Order. It is further

ORDERED that this docket be closed only upon receipt of the reports enumerated herein.

By ORDER of the Florida Public Service Commission
this 21st day of JULY, 1989.



STEVE TRIBBLE, 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 120.59(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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.