

M E M O R A N D U M

February 9, 1990

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (D. CROSBY)
RE: DOCKET NO. 890570-TI

DLC Te

22534

Attached is an Order Denying Reconsideration in the above-referenced docket, which is ready to be issued.

5921L:DLC/mgf

Attachment

cc: Division of Communications

DOCUMENT NUMBER 8477

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TPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) DOCKET NO. 890570-TI
proceedings against METRO LINE, INC.)
for failure to comply with 1988 annual) ORDER NO. 22534
report requirements)
_____) ISSUED: 2-12-90

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 RECONSIDERATION

BY THE COMMISSION:

On December 19, 1989, our Staff notified in writing all interexchange carriers (IXCs) of the requirement of Rule 25-24.480, Florida Administrative Code (the Rule), that they file Annual Reports. An Annual Report form and a copy of the Rule were attached to Staff's correspondence. On February 9, 1989, Staff sent a second notice to the 49 IXCs who did not meet the January 31, 1989 filing deadline. These IXCs were informed that, unless an Annual Report was submitted, their certificates may be cancelled or they may be fined. This correspondence also included a copy of the Rule and an Annual Report form. These IXCs were asked to contact Staff if they had a question.

At our May 30, 1989 Agenda Conference, we considered the appropriate action to take with respect to the 32 IXCs who were delinquent in filing their 1988 Annual Reports. They fell into three categories: (1) those who were late in filing their annual reports for the first time, (2) those who were late for the second consecutive year, and (3) those who had not filed by that date. After considering the issues, we offered those IXCs falling into the first two categories an opportunity to pay a fine in lieu of our initiating show cause proceedings.

The conditions which we imposed on our offer of settlement differed depending on whether the IXC was a member of the first or the second category. For IXCs who were late in filing their annual reports for the first time, a \$1,000 fine was offered,

DOCUMENT NUMBER-DATE

01308 FEB 12 1990

FPSC-RECORDS/REPORTING

ORDER NO. 22534
DOCKET NO. 890570-TI
PAGE 2

and if by July 14, 1989, they paid \$500, we would suspend the balance until the 1989 report is due. Our offer contained the provision that, if the 1989 report is filed late, the late-filing IXC will be required to pay the suspended portion of this fine as well as any additional fines that we may impose for that violation.

For IXCs who were late two years consecutively, we offered a \$4,000 fine, and if by July 14, 1989, they paid \$2,000, we would suspend the balance until the 1989 report is due. If the 1989 report is filed late, the late-filing IXC will be required to pay the suspended portion of this fine and any additional fines that may be imposed.

For IXCs who failed to file a 1988 Annual Report, we initiated proceedings and required them to show cause why they should not be fined \$10,000 and why their certificates should not be cancelled. Each company was ordered to file its written response by July 12, 1989.

At our October 3, 1989 Agenda Conference, we took action against the remaining IXCs who still had unresolved issues pending against them. By Order No. 22141, issued November 6, 1989 (the Order), we imposed fines of \$2,000 against Metro Line, Inc. (Metro), and \$500 against Corporate Executive Offices, Inc. (CEO). On November 21, 1989, Metro filed a request for reconsideration of Order No. 22141, arguing that we should not impose a fine upon Metro which exceeds the fine imposed upon CEO.

Upon review, we find that Metro has submitted no new evidence tending to support our reconsideration of the \$2,000 fine imposed on the company by the Order. The Order found that CEO had provided some evidence tending to show that CEO's Annual Report may have been mailed by January 26, 1989. Additionally, CEO claimed that it had not received any written correspondence concerning the Annual Reports, excluding the December 19, 1988 notification. Metro has not submitted any evidence tending to show that the fine imposed upon CEO is warranted in Metro's case. As stated in the Order, Metro's only defense for not timely filing its annual report was some

ORDER NO. 22534
DOCKET NO. 890570-TI
PAGE 3

internal miscommunications within Metro's operations. Metro correctly points out that it did not receive an offer of settlement from us. As explained above, offers of settlement were only made to those IXCs who fell into the first or second categories as late-filers. Metro was in the third category because it still had not filed its 1988 Annual Report when we acted on May 30, 1989. For these reasons, we deny Metro's request for reconsideration.

In view of this decision, Metro shall pay the \$2,000 fine imposed by the Order within 30 days of the issuance date of this Order. If Metro pays the fine within this period, we direct our Staff to close this docket. If Metro does not pay the fine, we waive the fine and direct our Staff to cancel the certificate held by Metro and to close this docket.

Based on the foregoing it is

ORDERED by the Florida Public Service Commission that Metro Line, Inc.'s request for reconsideration of Order No. 22141, issued November 6, 1989, is hereby denied. It is further

ORDERED that Order No. 22141, issued November 6, 1989, is hereby affirmed in all respects. It is further

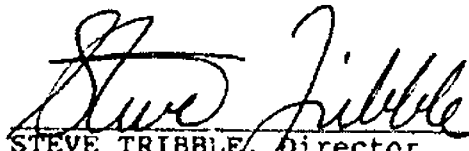
ORDERED that Metro Line, Inc. shall pay the fine imposed by Order No. 22141, issued November 6, 1989, no later than 30 days following the issuance date of this Order. It is further

ORDERED that our Staff is hereby delegated the administrative authority to close this docket at the end of the 30-day period established above if Metro Line, Inc. has paid the fine affirmed herein. It is further

ORDERED that the fine affirmed herein is hereby waived and our Staff is hereby delegated the administrative authority to cancel the certificate held by Metro Line, Inc. and to close this docket at the end of the 30-day period established above if Metro Line, Inc. has not paid said fine.

ORDER NO. 22534
DOCKET NO. 890570-TI
PAGE 4

By ORDER of the Florida Public Service Commission,
this 12th day of FEBRUARY, 1990.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF 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 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.