

FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show pro-) DOCKET NO. 920345-TP
ceeding against SIESTA MOTOR INN) ORDER NO. PSC-92-0451-FOF-TP
for violation of Section 364.3376) ISSUED: 06/04/92
(5), (6), and (11), F.S., and)
Rule 25-4.043, F.A.C., Response)
to Florida Public Service Commis-)
sion Staff Inquiries.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO SHOW CAUSE WHY A FINE
SHOULD NOT BE IMPOSED

BY THE COMMISSION:

On December 10, 1991, a performance evaluator from our staff inspected the telephone service at Siesta Motor Inn (Siesta) at 3155 Phillips Highway, Jacksonville, Florida. The evaluator noted apparent violations of Sections 364.3376(5) and (6), Florida Statutes.

On December 23, 1991, a letter was sent to Siesta advising of the apparent violations. The letter requested a written response within 15 calendar days. No response was ever received and on January 31, 1991, a second letter was sent via certified mail. This letter also requested a response and further advised that failure to correct the violations and respond in writing to the written communications from our staff could result in a show cause proceeding. Siesta failed to respond to the second letter but the return receipt was signed and returned on February 4, 1992.

On April 14, 1992, a member of our staff re-evaluated Siesta and found that violations of Sections 364.3376(5) and (6), Florida Statutes still existed. Section 364.3376(5), provides:

Each call aggregator shall post in the immediate vicinity of each telephone available to the public the name of the operator service provider, a toll-free customer service number, a statement that rate quotes are available upon request, and instructions on how the end-user may access other operator services providers and such other information determined by the commission to be necessary in the public interest.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

The information required by Section 364.3376(5) was not in place at the time of the first inspection. The information was still not in place when Siesta was reinspected on April 14, 1992.

Section 364.3376(6), provides:

Neither the operator service provider nor the call aggregator shall block or prevent an end-user's access to the end-user's operator service provider of choice, except that the commission shall grant limited waivers to operator service providers or call aggregators upon a showing that such waiver is in the public interest.

AT&T could not be reached via 10288+0 on December 10, 1991, or during the second inspection on April 14, 1992. When 10288+0 was dialed, a fast busy (120 IPM) was reached. Reaching a fast busy normally means that no trunks are available or that the end user has dialed an invalid number. Several attempts to reach AT&T by dialing 10288+0 were made and it appears this number sequence was blocked through the hotel switch. Dialing 00 reached an International Telecharge Inc. (ITI) operator.

We believe a fine of \$500 is appropriate because Siesta Motor Inn has: failed to post the information required by 364.3376(5); failed to provide access as required by 364.3376(6); and failed to respond to commission staff as required by Rule 25-4.043, Florida Administrative Code.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Siesta Motor Inn shall show cause why it should not be required to correct the violations alleged and be fined \$500 for violation of Sections 364.3376(5) & (6), Florida Statutes, and Rule 25-4.043, Florida Administrative Code, as outlined in the body of this Order. It is further

ORDERED that any response to this Order shall be filed pursuant to the requirements set forth below and shall present specific arguments of law and fact. It is further

ORDERED that if no response is filed, the failure to respond shall be deemed an admission of the facts alleged, a default and a waiver of the right to a hearing. It is further

ORDERED that if no response is filed, the fine shall be imposed. It is further

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ORDERED that this docket shall remain open pending resolution of the show cause proceedings.

By ORDER of the Florida Public Service Commission, this 4th day of June, 1992.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on June 24, 1992.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to

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a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.