

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920282-TI
cause proceedings against) ORDER NO. PSC-92-0984-FOF-TI
TACA MANAGEMENT, INC. for) ISSUED: 09/11/92
violation of Rule 25-24.470,)
F.A.C., Certificate of Public)
Convenience and Necessity)
Required.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO SHOW CAUSE
WHY A FINE SHOULD NOT BE IMPOSED
FOR VIOLATION OF RULE 25-24.470, F.A.C.

BY THE COMMISSION:

On August 14, 1991 a complaint was received regarding intrastate telecommunications service in Florida provided by TACA Management, Inc. (TACA). Because TACA does not possess a certificate to provide intrastate interexchange service within Florida our staff mailed TACA an IXC application and requested a response by September 6, 1991. On September 3, 1991 TACA replied, indicating that it was a multi-location WATS provider. TACA asserted however that it purchased multi-location WATS service from AT&T, that it did not provide an intrastate communications network, and declined to apply for an IXC Certificate.

After receiving a copy of the bill in the complaint, staff again mailed TACA an IXC application and requested a response by November 30, 1991. This letter was returned, marked "No longer in business."

On March 6, 1992 a second complaint was filed and a third application was sent to TACA. This application was returned marked "refused."

Section 364.33 Florida Statutes and Rule 25-24.470 Florida Administrative Code both provide that no person may provide interexchange service within Florida without first receiving a certificate of public convenience and necessity. In Order No.

DOCUMENT NO. 92-0984-FOF-TI

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FILED 9/11/92

ORDER NO. PSC-92-0984-FOF-TI
DOCKET NO. 920282-TI
PAGE 2

11206 we determined a reseller of telecommunications service falls within the definition of telecommunications company as defined in Section 364.02(4) Florida Statutes. Based on the evidence before us at this time, TACA appears to be operating as an interexchange carrier without a certificate.

Section 364.285 Florida Statutes provides us with the authority to fine any entity within our jurisdiction up to \$25,000 per day per violation for violation of any lawful rule or order we have promulgated.


Based on the foregoing it is

ORDERED by the Florida Public Service Commission that TACA Management, Inc shall show cause why it should not be fined up to \$25,000 for providing intrastate interexchange service without a certificate of public convenience and necessity in violation of Rule 25-24.470 Florida Administrative Code. It is further

ORDERED that any response to this Order shall be filed pursuant to the requirements set forth below. It is further

ORDERED that failure to respond to this Order in a timely manner shall be deemed a default and a waiver of the right to a formal hearing.

By ORDER of the Florida Public Service Commission this 11th day of September, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

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

ORDER NO. PSC-92-0984-FOF-TI
DOCKET NO. 920282-TI
PAGE 3

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 October 1, 1992.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to 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 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.