

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 911214-TP
 proceedings against TELECO) ORDER NO. PSC-93-1246-PHO-TP
 COMMUNICATIONS COMPANY for) ISSUED: 8/27/93
 violation of Rule 25-4.004,)
 Florida Administrative Code)
 _____)

Pursuant to Notice, a Prehearing Conference was held on August 23, 1993, in Tallahassee, Florida, before Commissioner Susan F. Clark, as Prehearing Officer.

APPEARANCES:

MARTIN R. DIX, Esquire, Katz, Kutter, Haigler, Alderman, Davis, Marks & Bryant, P.A., Post Office Box 1877, Tallahassee, Florida 32302.
On behalf of Teleco Communications Company.

FLOYD R. SELF, Esquire, Messer, Vickers, Caparello, Madsen, Lewis, Goldman & Metz, P.A., Post Office Box 1876, Tallahassee, Florida 32302-1876.
On behalf of Regency Towers Owners' Association, Inc..

PATRICIA A. KURLIN, Esquire, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863.
On behalf of the Commission Staff.

PREHEARING ORDERI. CASE BACKGROUND

By Notice of Proposed Agency Action Order No. PSC-93-0797-PCO-TP (the Order), issued January 4, 1993, the Commission determined that Teleco Communications Company's (Teleco's) operations at the Regency Towers Condominium constitutes operating as a local exchange company in violation of Section 364.33, Florida Statutes, and Rule 25-4.004, Florida Administrative Code. The Commission directed Teleco to relinquish all claims to the station wire at the Regency Towers. On January 25, 1993, Teleco filed its objection to the Order and request for a formal hearing.

DOCUMENT DATE

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On May 25, 1993, Order No. PSC-93-0797-PCO-TP was issued establishing the dates governing the key activities in this proceeding. As a result of continuing negotiations, Teleco and the staff agreed that a list of facts could be stipulated to, thus eliminating the need for witnesses and prefiled testimony. It was also agreed that the issues could be addressed in a Section 120.57(2) proceeding. Accordingly, Order No. PSC-93-0986-PCO-TP, issued July 2, 1993, suspended the testimony filing dates.

By Order No. PSC-93-1141-PCO-TP, issued August 5, 1993, the Regency Towers Owners Association, Inc. (RTOA) was granted intervention.

A Prehearing Conference was held on August 23, 1993, in Tallahassee.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

The parties agree that no confidential information will be presented in this proceeding.

III. PREFILED TESTIMONY

By Order No. PSC-93-0986-PCO-TP, issued July 2, 1993, the Prehearing Officer suspended the dates for prefiled testimony.

IV. POST-HEARING PROCEDURES

Pursuant to Rule 25-22.056(1), Florida Administrative Code, each party may file conclusions of law or briefs on the issues. The post-hearing filing shall total no more than 60 pages. The prehearing officer may modify the page limit for good cause shown. In this proceeding, briefs shall be filed by October 4, 1993. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

V. ISSUES

The issues that will be determined in this proceeding are as follows:

ISSUE 1: Do Teleco Communications Company's operations at the Regency Towers Condominium constitute operating as a telecommunications company in violation of Section 364.33 and Rule 25-4.004?

ISSUE 2: If Teleco is operating as a telecommunications company, what is the appropriate action that should be taken?

VI. PROPOSED STIPULATIONS

The parties have agreed to stipulate the following facts into the record of this proceeding:

1. The Regency Towers is a 340-unit condominium built by Major Development Company (MDC) in Panama City Beach, Florida.
2. MDC was a real estate development partnership owned by Charles E. Faircloth and William C. Grimsley.
3. Advisors Realty is a real estate and property management firm owned by MDC.
4. Advisors Realty was the management company for the Regency Towers Owners Association from November 1982 until September 1988.
5. The Regency Towers Owners Association (RTOA) is a condominium association which represents the unit owners at Regency Towers.
6. All 340 units at the Regency Towers are privately owned.
7. Most of the units are in the RTOA rental program and are rented on a temporary basis to the general public.
8. At least some of the units are owner-occupied.
9. All owner-occupied units receive telephone service from Southern Bell.

10. All units have access to telephone service from Southern Bell.

11. Generally, at least some of the units move in and out of the rental program during the year.

12. In February, 1985, Regency Towers was paying Southern Bell \$1072.00 per month for lease of the wiring within Regency Towers.

13. Affidavits from former members of the Board of Directors of the Regency Towers Owners Association reflect instruction to Advisors Realty to acquire the station wire from Southern Bell, at no more than the lease amount paid to Southern Bell.

14. The purchase of the 360 pairs of station wire from Southern Bell Telephone and Telegraph Company for \$11,566.00, in May, 1986 was negotiated by Paultronics, Inc.

15. The \$11,566.00 purchase price for the wire was paid to Southern Bell by Teleco Communications Company (Teleco).

16. Paultronics assigned its rights to the wire to Teleco in 1986.

17. Teleco is owned by Rodney Faircloth and Jason Grimsley.

18. Affidavits from former members of the Board of Directors also reflect that payments of \$1072.00 per month, maintenance included, would be made for 84 months with ownership reverting to the RTOA at the end of the 84 months.

19. For the period of June, 1986, through September, 1988, monthly checks in the amount of \$1072.00 drawn on the Regency Towers Operating and Maintenance account were made payable to Teleco.

20. The total amount paid to Teleco was approximately \$29,176.00.

21. In September, 1988, the RTOA took over management of the Regency Towers from Advisors Realty.

22. In November, 1988, the RTOA contacted the Commission staff regarding the dispute with Teleco.

23. Teleco currently has an action against RTOA pending in the Circuit Court in Panama City, Florida for breach of contract.

24. Teleco has not applied for, nor has it been issued a certificate of public convenience and necessity from the Florida Public Service Commission.

25. Attachment A, provided separately, contains a copy of the site plan for the telephone wiring at Regency Towers, and a letter from Rodney Faircloth describing the telephone wire at Regency Towers.

26. Attachment A is a current and accurate description of the telephone wiring at Regency Towers.

VII. EXHIBITS

The parties agree to stipulate the following exhibits into the evidentiary record of this proceeding:

<u>ID #</u>	<u>Description</u>
1	Attachment A to the above proposed stipulated facts.
2	Affidavits from past members of the Board of Directors of the Regency Towers Owners Association, Inc.

VIII. RULINGS

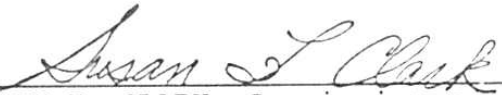
The Prehearing Officer has ruled that each party will have 20 minutes to present oral argument.

It is therefore,

ORDERED by Commissioner Susan F. Clark, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

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By ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 27th day of August, 1993.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

PAK

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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary,

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procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.