

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Coral Communications, Inc. for violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required.

DOCKET NO. 980336-TI
ORDER NO. PSC-98-1684-AS-TI
ISSUED: December 10, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER APPROVING SETTLEMENT OFFER

CASE BACKGROUND

BY THE COMMISSION:

By Order No. PSC-98-0573-SC-TI, issued April 23, 1998, in this Docket, we ordered Coral Communications, Inc. (Coral) to show cause in writing within 20 days of the effective date of the Order why it should not be fined \$25,000 per day for its apparent violations of Rule 25-24.470, Florida Administrative Code. It appeared that Coral was offering telecommunications services in Florida without the proper certificate. It also appeared that Coral was engaged in "cramming" unauthorized charges onto telecommunications customers' local telephone bills.

After meetings with our staff, Coral submitted a settlement offer on May 7, 1998. In its settlement offer Coral agreed to refund any Florida customer complaints, withdraw all marketing materials in Florida, and pay a \$10,000 penalty for operating without a certificate.

Following this initial offer, our staff engaged in further discussions with the company regarding this matter. As a result of those discussions, Coral submitted an amended offer of settlement

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on November 2, 1998, which incorporated the prior May 7, 1998, settlement offer. In its November 2, 1998, amendment, Coral agreed to increase its penalty payment to \$15,000. The May 7, 1998, settlement offer and the November 2, 1998, amendment are attached and incorporated into this Order as Attachment A.

We agree that it is appropriate for Coral to make refunds to Florida consumers, because it appears that Coral has been soliciting its services in Florida since 1996. Coral has stated in its settlement offer that it has already made refunds to consumers in Florida in the amount of \$32,688.37.

We also agree that it is appropriate for Coral to withdraw all of its marketing materials from Florida until it receives the necessary certification. Coral has applied to us for the necessary certification, and Docket No. 980491-TI has been established to address Coral's application. Coral shall not be allowed to resume marketing in Florida until its certificate to provide interexchange telecommunications service in Florida is approved and effective.

Furthermore, we believe that Coral's offer to make a voluntary payment of \$15,000 as a penalty for operating without a certificate is acceptable in this instance. Coral shall be required to make this payment to the General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes.

Upon consideration, Coral's amended settlement offer seems fair and reasonable, and it relieves the concerns that we identified in Order No. PSC-98-0573-SC-TI. In addition, the company has been very cooperative in resolving all issues. Therefore, Coral's settlement offer, as amended November 2, 1998, is approved. We note, however, that we are aware that this company has had similar problems in several other states. In view of Coral's apparent problems in this state and others, we emphasize to the company that any future violations in Florida will not be regarded lightly.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that the amended settlement offer submitted by Coral Communications, Inc., which is attached and incorporated herein as Attachment A, is accepted. It is further

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ORDERED that Coral Communications, Inc. shall remit \$15,000 to the State of Florida General Revenue Fund, in accordance with Section 364.285(1), Florida Statutes, within five business days after this Order becomes final. It is further

ORDERED that this Docket shall be closed upon remittance of the \$15,000 payment.

By ORDER of the Florida Public Service Commission this 10th day of December, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

BK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater utility by filing a notice of appeal with the Director,

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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.

ATTACHMENT A

THE LUSTIGMAN FIRM, P.C.
ATTORNEYS

60TH FLOOR
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NEW YORK, NY 10118-6098
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SHELDON S. LUSTIGMAN
(ADMITTED NY & NJ)

ANDREW B. LUSTIGMAN
(ADMITTED NY & NJ)

November 2, 1998

Ms. Beth Keating
State of Florida
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Coral Communications, Inc.

NOV 6 1998
LEGAL DIVISION

Dear Ms. Keating:

Reference is made to our recent conversations regarding a resolution of the above investigation. As I understand it, the PSC is willing to grant Coral the necessary certification with the condition that Coral agrees to pay a penalty of \$30,000 in settlement. As you know, Coral had previously offered to settle this matter for \$10,000. My client has authorized me to increase the offer to \$15,000 and is not inclined to go beyond that sum. Please let me know if this payment will be acceptable to settle the matter and when Coral can expect to receive its certification.

Thank you for your cooperation.

Sincerely yours,

Sheldon S. Lustigman
SHELDON S. LUSTIGMAN

SSL:jt

cc: Devon Porcella, Esq.

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ATTACHMENT A
DEVON A. PORCELLA, ESQUIRE
CORPORATE COUNSEL
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BOCA RATON, FLORIDA 33487

TELEPHONE: (861) 241-0348

E-MAIL: DEVON@CORAL.COM

FACSIMILE: (861) 998-9640

May 7, 1998

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

To Whom It May Concern:

Coral Communications would like to propose the following settlement offer as final disposition of the Show Cause Proceedings filed against Coral Communications, Docket No. 980336-TI:

- 1) Coral has refunded \$32,688.37 to Florida consumers and will continue to refund any Florida customer complaints.
- 2) Coral will make sure that all marketing materials are withdrawn from Florida.
- 3) Coral will pay a \$10,000 penalty for operating in Florida without its Certificate of Public Convenience and Necessity.

In addition, I have included a cease and desist letter that I sent to our agent who was marketing in Florida. As you can see, the agent should not have been marketing in Florida as per his contract. To my knowledge, since notification to this agent, all marketing in Florida has stopped.

As of April 4, 1998 Coral Communications ceased billing in Florida. In fact, we had screens in our system which were supposed to block any Florida billing, but the system failed. We have since found the problem and have the appropriate screens working.

I would also like to note that Coral filed its application for its tariff in Florida on April 3, 1998, Docket # 980491-TI.

Please contact me as soon as possible about this settlement offer so that I may have sufficient time to respond to the Rule to Show Cause, should we not resolve this matter through a settlement.

Very truly yours,


Devon A. Porcella