

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to provide interexchange telecommunications service by Vendormatic, Inc. d/b/a HSS Vending Distributors, and initiation of show cause proceedings for violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required.

DOCKET NO. 961309-TI
ORDER NO. PSC-99-0125-PCO-TI
ISSUED: January 22, 1999

The following Commissioners participated in the disposition of this matter:

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

ORDER REJECTING SETTLEMENT PROPOSAL
AND RESETTING MATTER FOR HEARING

BY THE COMMISSION:

By Order No. PSC-97-0937-FOF-TI, issued August 5, 1997, we ordered Vendormatic, Inc., d/b/a HSS Vending Distributors (HSS), to show cause why it should not be fined in the amount of \$25,000 for violation of Rule 25-24.470, Florida Administrative Code, Certificate of Public Convenience and Necessity Required. At the same time, in a proposed agency action, we also granted HSS a certificate to provide interexchange telecommunications service, but held the certificate in abeyance pending the resolution of the show cause proceeding.

On August 26, 1997, HSS filed a Response to Order to Show Cause (response). In the response, HSS requested that the proposed fine not be assessed and that a formal hearing be initiated before any such assessment. On the same date, HSS filed a Petition for Formal Proceeding (petition) pursuant to Section 120.57, Florida Statutes.

DOCUMENT NUMBER-DATE

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FPC-RECORDS/REPORTING

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On February 10, 1998, we received a letter from counsel for HSS offering \$5,000 as a settlement of the proceedings pending against it. We attempted to contact counsel several times concerning HSS's settlement offer. On June 15, 1998, we sent a letter to the company. We did not receive a response. Subsequently, on October 14, 1998, counsel for HSS informed our staff that he no longer represented HSS.

Our staff attempted to contact the president of HSS on three separate occasions in an effort to further discuss HSS's settlement offer and request for hearing. Our staff did not receive a response. Our staff then attempted to contact the company by sending a certified letter to the company's president, Mr. Richard Hersperger, on October 26, 1998. Our staff never received the postal receipt for the letter. In an abundance of caution, our staff sent another letter to the company on December 1, 1998. On December 14, 1998, the certified letter was returned. The postal receipt indicated that the certified letter had been refused.

In view of our staff's inability to engage HSS in further discussions regarding its settlement offer, we have proceeded with review of the settlement offer.

Our Division of Consumer Affairs received 60 customer complaints against the company. In view of the numerous complaints that we received, we do not believe that HSS's offer to pay \$5,000 is a sufficient amount to settle the proceedings against it. Thus, we find that it is in the public interest to reject HSS's offer.

We note that HSS's August 26, 1997, Petition for Formal hearing has, however, not been resolved by our rejection of the settlement offer. Therefore, we shall reschedule this matter for hearing. Filing and procedural dates will be reset at a later date. We emphasize, however, that if HSS fails to comply with the appropriate filing and procedural dates of the hearing schedule, we will revisit this matter, and likely take action to cancel the hearing, assess the fine, and cancel Certificate No. 4801.

It is, therefore

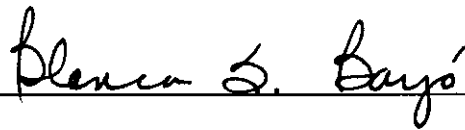
ORDERED by the Florida Public Service Commission that the settlement offered by Vendormatic, Inc. d/b/a HSS Vending Distributors is rejected. It is further

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ORDERED that this Docket shall be rescheduled for hearing. It is further

ORDERED that this Docket shall remain open pending the outcome of the hearing.

By ORDER of the Florida Public Service Commission this 22nd day of January, 1999.



BLANCA S. BAYÓ, 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 120.569(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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida

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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, 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.