

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Colorado River Communications Corp. for apparent violation of Rule 25-24.485, F.A.C., Tariffs, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

DOCKET NO. 981868-TI
ORDER NO. PSC-99-2392-AS-TI
ISSUED: December 7, 1999

The following Commissioners participated in the disposition of this matter:

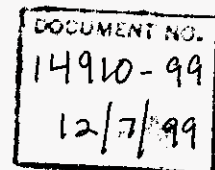
JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.

ORDER GRANTING MOTION FOR EXTENSION OF TIME AND
APPROVING OFFER OF SETTLEMENT

BY THE COMMISSION:

On July 8, 1994, Colorado River Communications Corp. (Colorado) received Certificate Number 3565 in order to offer interexchange telecommunications service in Florida. On December 31, 1998, Colorado reported gross intrastate revenues of \$9,675.99 on its 1998 regulatory assessment fee form.

On May 18, 1998, our Division of Consumer Affairs received a complaint from a Colorado customer, Mr. Parks, regarding apparent unauthorized usage charges and a monthly service fee billed to his account. Upon investigation, it was determined that the monthly service fee was not in Colorado's tariff on file with the Commission. Accordingly, this docket was opened to require Colorado to show cause why it should not be fined for apparent violations of Commission rules. On February 24, 1999, we issued Order No. PSC-99-0401-SC-TI, ordering Colorado to show cause in writing within 21 days of the effective date of the Order why it should not be fined \$250 for apparent violation of Rule 25-24.485, Florida Administrative Code, Tariffs, and \$10,000 for failure to



comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, or have its certificate canceled.

On March 17, 1999, Colorado timely responded to the Order by filing a Motion for Extension of Time on the grounds that it needed additional time to pursue settlement negotiations with Commission staff. We find it appropriate to grant Colorado's motion.

On May 5, 1999, our Division of Telecommunications received a complaint from Chipola Pal Int. (Chipola) regarding apparent unauthorized monthly service fees billed to its account. Upon investigation, it was determined that the monthly service fee was not in Colorado's tariff on file with the Commission. Additionally, while investigating the Parks complaint, our staff had determined that the overcharges were the result of a three month promotional offering by Colorado that it failed to file with the Commission. Upon receipt of Chipola's complaint and further investigation into the charges, our staff discovered that some of the customers that signed up for the promotional offering and decided to keep Colorado as its long distance provider continued to be overcharged for a period of six months.

By letter dated October 20, 1999, Colorado submitted its offer of settlement, which is appended as Attachment A and incorporated herein by reference. In its settlement offer, Colorado states that it had experienced a substantial amount of turnover within the past months, and that as a result, the Parks complaint was handled improperly. In its settlement offer, Colorado agrees to do the following:

- Issue a full credit to the Parks as resolution to their complaint filed with the Division of Consumer Affairs.
- Issue a full credit to Chipola Pal Int. as resolution to its complaint filed with the Division of Telecommunications.
- Make timely tariff changes prior to implementation of any new services.
- Issue credits in the amount of \$4,533.21, which includes \$495.21 in interest, in the months of January and February of 2000 to all customers affected by the

unauthorized charge. The credits will appear on the local telephone company statement through Colorado's billing agent, USBI.

- Provide staff with a status report on February 10, 2000 and March 10, 2000.
- Remit all remaining unrefundable monies to the Florida Public Service Commission for deposit in the General Revenue Fund by March 15, 2000.
- Make a voluntary contribution to the General Revenue Fund in the amount of \$2,000.

We accept the terms of Colorado's offer of settlement as summarized above. The company has satisfactorily addressed each of our concerns, and has been very cooperative in resolving all issues. Therefore, we believe the settlement offer to be fair and reasonable and do hereby accept it.

The \$2,000 contribution shall be received by the Commission within ten business days from the issuance date of this Order and shall identify the docket number and company name. We will then forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes.

If Colorado fails to pay the \$2,000 voluntary contribution in accordance with the terms of the offer of settlement, Certificate No. 3565 shall be canceled.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the offer of settlement by Colorado River Communications Corp., which is appended as Attachment A and incorporated herein by reference, is hereby approved. It is further

ORDERED that Colorado River Communications Corp. shall remit the \$2,000 voluntary contribution to the Commission within ten business days from the issuance date of this Order and shall identify the docket number and company name. This voluntary contribution shall be forwarded to the Office of the Comptroller

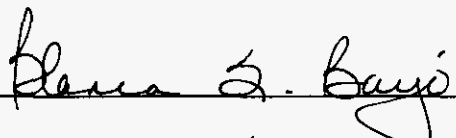
ORDER NO. PSC-99-2392-AS- TI
DOCKET NO. 981868-TI
PAGE 4

for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes. It is further

ORDERED that if Colorado River Communications Corp. fails to pay in accordance with the terms of the offer of settlement, Certificate No. 3565 shall be canceled.

ORDERED that this docket shall remain open pending completion of the refunds, remittance of the \$2,000 voluntary contribution, remittance of the monthly consumer refund reports, and remittance of all amounts remaining unrefunded for deposit in the General Revenue Fund by March 15, 2000. The consumer refund reports shall be submitted on February 10, 2000 and March 10, 2000. Upon completion of the refunds, remittance of the \$2,000 voluntary contribution, remittance of the monthly consumer refund reports, and remittance of all amounts remaining unrefunded for deposit in the General Revenue Fund, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 7th day of December, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DMC

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

ORDER NO. PSC-99-2392-AS-TI
DOCKET NO. 981868-TI
PAGE 5

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, 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.

NOWALSKY, BRONSTON & GOTHARD

A Professional Limited Liability Company
Attorneys at Law

Leon L. Nowalsky
Benjamin W. Bronston
Edward P. Gothard

3500 N. Causeway Boulevard
Suite 1442
Metairie, Louisiana 70002
Telephone: (504) 832-1984
Facsimile: (504) 831-0892

Monica R. Borne
EllenAnn G. Sands

October 20, 1999

OCT 25 1999

CRC

Ms. Kelly Biegalski
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Colorado River Communications Corp.
Order to Show Cause
Docket No. 981868-TI

Dear Ms. Biegalski:

In accordance with our telephone conversation of this date regarding the above referenced matter, Colorado River Communications Corp. ("CRC"), through undersigned counsel, herein submits the conditions which it will fulfill in order to obtain a final settlement of the issues raised in the Commission's Order to Show Cause. The conditions that CRC will fulfill are as follows:

- 1.) CRC will issue (if not previously issued) a full credit to both the Parks and Chipola Pal.
- 2.) CRC will timely file tariff changes prior to offering a new service or revising an old service.
- 3.) During the months of January through February, 2000, CRC will issue credits to those Florida customers of CRC's service who were overcharged.
- 4.) CRC will provide a report to the Commission regarding the status of the issuance of customer credits. The first report will be due on February 10, 2000 and the final report will be due on March 10, 2000.
- 5.) Any amounts which cannot be refunded will be forwarded to the Florida Public Service Commission by March 15, 2000, to be deposited into the General Revenue Fund.

ORDER NO. PSC-99-2392-AS-TI
DOCKET NO. 981868-TI
PAGE 7

Page -2-
Ms. Kelly Biegalski
October 20, 1999

- 6.) CRC will voluntarily contribute to the General Revenue Fund the sum of \$2,000.00.
- 7.) CRC will issue credits for overcharges in the amount of \$4,038.00. The credit will be divided proportionately between the 342 customers who were over charged by the \$3.00 per month charge during the promotional period and the additional 32 customers who were also overcharged by the same amount.

Should you have any questions or require any additional clarification please do not hesitate to call.

Sincerely,



Leon L. Nowalsky

LLN/sw

cc: Christine Heffernan