

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to	)	DOCKET NO. 910420-TC
provide pay telephone service by	)	ORDER NO. 24506
YOMA, INC. d/b/a COCONUTS.	)	ISSUED: 5/8/91
_____)		

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 J. TERRY DEASON  
 BETTY EASLEY  
 GERALD L. GUNTER

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING APPLICATION FOR CERTIFICATE  
 OF PUBLIC NECESSITY AND CONVENIENCE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Yoma, Inc. d/b/a Coconuts (Coconuts or the Company) was first certificated on May 9, 1986. Pursuant to Order No. 23224, Coconuts was canceled for failure to comply with Rule 25-24.520, Florida Administrative Code, 1989 Annual Report Requirement, and for violation of Rule 25-24.043, Florida Administrative Code, Response Requirement.

On July 19, 1990, we issued Order No. 23224 requiring Coconuts to show cause in writing why it should not be fined \$100 for failure to file its 1989 annual report, pursuant to Rule 25-24.520, Florida Administrative Code. Order No. 23224 also provided that in the event that Coconuts failed to file an adequate response as defined by Rule 25-22.036(7)(a), Florida Administrative Code, the Company would be deemed to have defaulted with regard to the allegations made.

Coconuts did not file an adequate written response and its PATS Certificate was canceled on July 19, 1990. Coconuts subsequently reapplied for a new certificate on March 20, 1990.

DOCUMENT NUMBER-DATE

04505 MAY-8 1991

SC-RECORDS/REPORTING

ORDER NO. 24506  
DOCKET NO. 910420-TC  
PAGE 2

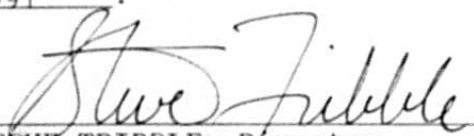
We adopt the position that annual reports are an essential requirement for retaining a PATS Certificate. Furthermore, Coconuts failed to adequately respond in writing as specifically required by Show Cause Order No. 23224. The failure to respond had the effect of a default. If our rules or orders are to have any weight or effect we cannot permit PATS providers to ignore our rules and orders and simply reapply for another certificate after we have canceled their first certificate for violations. Therefore, we find it not to be in the public interest to approve Coconuts' application for a certificate of public necessity and convenience.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Yoma, Inc. d/b/a Coconuts' application for a certificate of public necessity and convenience to provide pay telephone service is hereby denied. It is further

ORDERED that unless a formal protest is filed pursuant to requirements below, this docket will be closed at the conclusion of the protest period.

By ORDER of the Florida Public Service Commission, this 8th day of MAY, 1991.

  
\_\_\_\_\_  
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

ORDER NO. 24506  
DOCKET NO. 910420-TC  
PAGE 3

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. 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 25-22.029(4), 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 May 29, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.