

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)
proceedings for failure to file 1990)
annual reports:)
)
MTS-TAMPA, INC.) DOCKET NO. 910134-TI
SUNFOREST COMMUNICATIONS GROUP) DOCKET NO. 910137-TI
) ORDER NO. 24630
) ISSUED: 6/6/91

The following Commissioners participated in the disposition of this matter:

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

ORDER IMPOSING FINES

BY THE COMMISSION:

By Order No. 24247 (the Order), issued March 18, 1991, we ordered MTS-Tampa, Inc. (MTS-Tampa) and Sunforest Communications Group (Sunforest) to show cause in writing why a \$1000 fine should not be assessed against them for violation of Rule 25-24.480, Florida Administrative Code (the Rule). The Rule requires each interexchange carrier (IXC) to file an annual report with the Commission by January 31 of each year. Both MTS-Tampa and Sunforest filed their annual reports on February 1, 1991. The Order stated that the companies could pay the assessed fine or provide a written response by April 8, 1991.

On April 8, 1991, both MTS-Tampa and Sunforest responded to the Order from claiming that the reports were completed and mailed in time to be delivered by the deadline. The companies asked whether it was possible that the reports were received but not recorded until February 1. However, in a telephone conversation on February 4, 1991 with a representative of both companies, our Staff explained that all mail received between the Florida Public Service Commission's official operating hours of 7:45 am and 4:45 pm is recorded that same day.

MTS-Tampa and Sunforest have held IXC certificates since June 25, 1986, and September 14, 1987, respectively. We believe that as long as a company holds an IXC certificate it is the company's responsibility to comply with all Commission rules. Additionally, all IXCs were notified by letter dated November 16, 1990 and January 3, 1991, reminding them that the January 31 deadline was

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approaching. Again, we wish to make it clear that the Rule states that the annual reports must be filed by January 31. It is the IXCs responsibility to make sure that the report is mailed in a timely manner. MTS-Tampa and Sunforest have not provided this Commission with any specific statements of fact or law sufficient to persuade us to waive the penalty. Additionally, both IXCs waived their right to appear at a public hearing in their filed responses. Therefore, we find that MTS-Tampa and Sunforest shall each pay a fine in the amount of \$1000 for violation of Rule 25-24.480, F.A.C. If MTS-Tampa and Sunforest fail to pay the fine within 20 days of the issuance of this order, their certificates shall be canceled, and the dockets closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that MTS-Tampa, Inc. shall pay a fine in the amount of \$1000 for violation of Rule 25-24.480, Florida Administrative Code, which requires interexchange carriers to file annual reports by January 31 of each year. It is further

ORDERED by the Florida Public Service Commission that Sunforest Communications Group shall pay a fine in the amount of \$1000 for violation of Rule 25-24.480, Florida Administrative Code, which requires interexchange carriers to file annual reports by January 31 of each year. It is further

ORDERED that if MTS-Tampa, Inc. pays the fine within 20 days of the issuance of this order, the docket shall be closed administratively. It is further

ORDERED that if Sunforest Communications Group pays the fine within 20 days of the issuance of this order, the docket shall be closed administratively. It is further

ORDERED that if MTS-Tampa, Inc. does not pay the fine within 20 days of the issuance of this order, its certificate shall be canceled, the fine waived, and the docket closed. It is further

ORDERED that if Sunforest Communications Group does not pay the fine within 20 days of the issuance of this order, its certificate shall be canceled, the fine waived, and the docket closed.

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By ORDER of the Florida Public Service Commission, this 6th
day of JUNE, 1991



STEVE TRIBBLE, Director
Division of Records and Reporting

(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 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 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 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 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.

MEMORANDUM

June 5, 1991

TO : DIVISION OF RECORDS AND REPORTING
FROM : DIVISION OF LEGAL SERVICES (KURLIN) pak TH
RE : DOCKETS NOS. 910134-TI AND 910137-TI

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Attached is an ORDER IMPOSING FINES in the above-referenced docket, which is ready to be issued.

PAK/ttl
Attachment
cc: Division of Communications

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