

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint of GHF Associates) DOCKET NO. 910486-TL
against SOUTHERN BELL TELEPHONE AND) ORDER NO. 25269
TELEGRAPH COMPANY regarding the billing) ISSUED: 10-30-91
for ESSX service)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER DENYING MOTION FOR RECONSIDERATION

BY THE COMMISSION:

On January 9, 1991, Mr. Steven M. Gray of GHF Associates filed a complaint against Southern Bell Telephone and Telegraph Company questioning the validity of the billing for ESSX service for 30 lines listed for Audio Adventures and billed to GHF Associates. By Order No. 24654, issued June 11, 1991, we denied Mr. Gray's complaint. The proposed agency action required a response by July 2, 1991. On July 3, Mr. Gray's Petition for Formal Proceeding was received. On July 15, we received Mr. Gray's Motion to Move Petition out of Time.

By Order No. 24791, issued August 26, 1991, we denied Mr. Gray's Motion to Move Petition out of Time; thus, denying his Petition for Formal Proceeding as untimely filed. On September 12, 1991, the Division of Records and Reporting received a letter from Mr. Gray, which we considered equivalent to a motion for reconsideration.

Pursuant to Rule 25-22.060, Florida Administrative Code, any party adversely affected by an order of the Commission may file a motion for reconsideration of that order. The motion must be filed with the Division of Records and Reporting within 15 days of the issuance of the order. Since Order No. 24791 was issued on August 26, 1991, the motion for reconsideration should have been filed by September 10, 1991. The Division of Records and Reporting received a letter from Mr. Gray on September 12, 1991.

When we voted to deny Mr. Gray's original complaint and issued proposed agency action Order No. 24654, Mr. Gray filed an untimely

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protest. When the final Order No. 24791 was issued in this docket, Mr. Gray again filed an untimely motion.

We believe that Mr. Gray has been given adequate notice of the rules governing Commission procedures. Both Order No. 24654 and Order No. 24791 contained specific filing guidelines in the notice paragraphs. Additionally, Mr. Gray has been free to attend all proceedings in this docket. We believe that Mr. Gray has been afforded adequate due process as required by statute and our rules. Accordingly, we deny Mr. Gray's motion for reconsideration of final Order No. 24791 as untimely filed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Mr Steven Gray's Motion for Reconsideration of Order No. 24791 is hereby denied as untimely filed. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this 30th
day of October, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

PAK

by: Kay Ferguson
Chief, Bureau of Records

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

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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.

M E M O R A N D U M

October 29, 1991

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (KURLIN) *PAK TH*

RE: DOCKET NO. 910486-TL

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Attached is an ORDER DENYING MOTION FOR RECONSIDERATION in the above-referenced docket, which is ready to be issued.

PAK/mgf

Attachment

cc: Division of Communications

910486b.mgf

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