

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) DOCKET NO. 910788-TC
proceedings against TELALEASING) ORDER NO. PSC-92-0219-FOF-TC
ENTERPRISES, INC. for violation) ISSUED: 4/17/92
of Florida Public Service)
Commission Rules.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION ORDER
DIRECTING COMPLIANCE AND SUSPENDING FINE

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.

Telaleasing Enterprises, Inc. (TEI) has been a certificated pay telephone service (PATS) provider since September 12, 1989. As a certificated provider, TEI is subject to our jurisdiction.

On October 10, 1992 we issued Order No. 25184 requiring TEI to show cause why it should not be fined \$5,000 for violation of Rules 24-4.043 Response Requirements and 25-24.515(13) Handicapped Accessibility, Florida Administrative Code. On October 30, 1991, TEI filed a response to Order No. 29184.

Since filing its response, TEI has made attempts to negotiate a settlement. At this time, TEI has made an offer to correct the handicapped accessibility violations in lieu of a fine.

In large measure, TEI's settlement proposal consists of simply correcting already existing substantive violations and warranting that it is in compliance with all PATS requirements. The terms of TEI's offer are as follows:

- 1) TEI will immediately take steps to ensure that the five pay telephones in question meet the 54 inch height requirements.

As a matter of information, this means that TEI will either again replace the pedestals or will truncate and weld the existing pedestals.

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- 2) TEI will guarantee that within 30 days of the final order all of its more than 370 pay telephones will meet the height requirement.

As a matter of information, this means that TEI will inspect all of its pay stations to ensure height compliance. If a phone is too high, the pedestal will be either replaced or truncated. Although TEI is not aware of any other pay telephones being too high, it cannot rule out that others may also be too high by 1/4 to 1/2 inch. The cost of inspecting the pay telephones and remedying any problems is projected to be not less than \$1,000.00 and can easily exceed the \$5,000.00 contemplated as a fine.

- 3) No fine will be imposed on TEI.
- 4) It will be acknowledged that although TEI experienced difficulties with respect to conforming to the 54 inch height requirement, TEI has acted in good faith to ensure perfect compliance of all of its pay telephones.

We find that TEI's offer is not entirely adequate. We believe that TEI is obligated to bring its instruments into compliance with our rules. Conversely, we recognize that TEI willingness to cooperate and the degree of the cooperation substantially mitigates the violation in the limited facts of this case. Accordingly, we find it appropriate to impose a suspended fine. In the event no violations are discovered within the next six months the fine shall not be imposed and this docket shall be closed.

Based on the foregoing it is

ORDERED by the Florida Public Service Commission that the fine proposed in this docket is suspended and shall not be imposed unless a pay telephone operated by Telaleasing Enterprises, Inc. is found to be in violation of the Handicapped Accessibility Requirements. It is further

ORDERED that any protest of this Order shall be filed pursuant to the requirements set forth below. It is further

ORDERED that if no protest is filed and no violations of the Handicapped Accessibility Requirements are reported, this docket shall be closed six months from the date of this Order.

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By ORDER of the Florida Public Service Commission, this 17th
day of April, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: Kay Dugan
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 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.

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 8, 1992.

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.

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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 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 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.