



Communications Management Services DEPOSIT

DATE JUN 24 2 14 PM '99

D160

JUN 29 1999

ADMINISTRATION MAIL ROOM

JUNE 22, 1999

PUBLIC SERVICE COMMISSION
2540 SHRUMARD OAK BLVD
TALLAHASSEE, FL 32399
ATTENTION: J. MILLER

DOCKET# 990664-TC

DEAR MS MILLER,

OUR COMPANY IS IN RECEIPT OF THE LETTER SENT TO US REGARDING DOCKET # 990664-TC.

ENCLOSED IS A CHECK FOR THE \$ 200.00 REQUESTED FROM THE PUBLIC SERVICE COMMISSION HOWEVER I WOULD LIKE TO TAKE A MOMENT TO EXPLAIN TO YOU WHAT WE BELIEVE TO HAVE HAPPENED IN THIS SITUATION.

IN THIS LETTER THERE IS NOTHING SPECIFIC STATED HOWEVER I DID HAVE A CONVERSATION WITH ANGELA GREEN A FEW WEEKS AGO. SHE WAS EXPLAINED THAT THERE WERE TWO LOCATIONS IN WHICH WE SENT A LETTER TO THE PUBLIC SERVICE COMMISSION STATING THAT WE HAD INSTALLED NEW LABELS AT TWO LOCATIONS AND WHEN THE PUBLIC SERVICE WENT TO INSPECT THE PAYPHONES, THEY FOUND NO LABELS. THERE IS A LOT OF VANDELISM IN THE CITY OF FT LAUDERDALE AND WE DID IN FACT INSTALL NEW LABELS AND THEY MUST HAVE BEEN REMOVED AGAIN. WE HAD A MEETING WITH ALL OF OUR TECHNICIANS AND REMINDED THEM THAT IT IS THEIR RESPONSIBILITY TO INFORM US OF LABELS BEING REMOVED SO THAT WE CAN REPLACE THEM UPON REMOVAL. WE DO NOT ANTICIPATE THIS HAPPENING AGAIN.

WE AGAIN APOLOGIZE FOR ANY INCONVIENCE WE MAY HAVE CAUSED.

- AFA
APP
CAF
CMU
CTR
EAG
LEG
MAS
OPC
RRR
SEC
WAW
OTH

DOCUMENT NUMBER - DATE
07865 JUN 29 99
EPSC RECORDS/REPORTING
RAR -
J. Miller
T. Johnson

NUTREND COMMUNICATIONS
5610 NW 12TH AVE., SUITE 211
FT. LAUDERDALE, FLORIDA 33309

NATIONSBANK N.A.

1105

63-27/631

6/22/99

PAY TO THE ORDER OF

Public Service Commission

\$ 200.00

Two Hundred and 00/100*****

DOLLARS

Public Service Commission
2540 Shrumard Oak Blvd
Tall, Fl. 32399

VOID AFTER 6 MONTHS

Rebecca [Signature]

AUTHORIZED SIGNATURE

MEMO

Docket # 990664-TL



Communications Management Services

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ATTENTION: J. MILLER

DOCKET# 990664-TC

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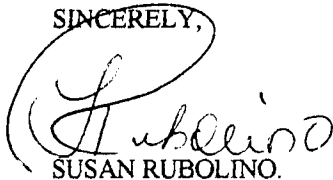
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WE AGAIN APOLOGIZE FOR ANY INCONVIENENCE WE MAY HAVE CAUSED.

RAR
J. Miller
T. Johnson

SINCERELY,


SUSAN RUBOLINO.



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: JUNE 17, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF LEGAL SERVICES (J.MILLER)
DIVISION OF COMMUNICATIONS (T.E.JOHNSON)

RE: DOCKET NO. 990664-TC - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST COMMUNICATIONS MANAGEMENT SERVICES, INC. FOR VIOLATION OF RULE 25-24.515, FLORIDA ADMINISTRATIVE CODE, PAY TELEPHONE SERVICE

AGENDA: 06/29/99 - REGULAR AGENDA - SHOW CAUSE - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990664.RCM

CASE BACKGROUND

- December 15, 1998 - Communications Management Services, Inc.'s (CMS) 1998 regulatory assessment fee return reported gross intrastate revenues of \$3,900.00. CMS did not report the number of phones in operation.
- February 16, 1999 and February 23, 1999 - Staff performed service evaluations on two pay telephones operated by CMS.
- March 10, 1999 and March 19, 1999 - Staff received Service Violation Correction Forms from CMS signifying that all apparent violations were corrected.
- April 21, 1999 and April 27, 1999 - Staff reevaluated the pay telephone stations. Apparent rule violations continued to occur.

DISCUSSION OF ISSUES

ISSUE 1: Should Communications Management Services, Inc. be ordered to show cause why a fine of \$200 for apparent violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, should not be imposed or certificate number 5137 should not be canceled?

RECOMMENDATION: Yes. The Commission should order CMS to show cause in writing within 21 days of the date of the order why it should not have Certificate No. 5137 canceled or be fined \$200 for apparent violation of Rule 25-24.515, Florida Administrative Code. CMS' response must contain specific allegations of fact or law. If CMS fails to respond to the show cause, and the fine is not paid after reasonable collection efforts by the Commission, certificate number 5137 should be canceled. If the fine is paid it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. (T.E.Johnson)

STAFF ANALYSIS: Staff performed service evaluations of two pay telephone stations operated by CMS February 16, 1999 and February 23, 1999. Through written correspondence, staff notified CMS of the apparent violations.

Staff performed a reevaluation of the same two pay telephone stations on April 21, 1999 and April 27, 1999. Although CMS reported that all violations had been corrected, the table provided as Attachment A (page 5) depicts the apparent rule violations that were still present in the reevaluation.

By Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Staff believes that CMS' conduct in providing pay telephone services in apparent violation of Commission Rule 25-24.515, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that

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DATE: JUNE 17, 1999

"In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as CMS' conduct at issue here, would meet the standard for a "willful violation."

Accordingly, staff recommends that the Commission find that CMS' apparent violations of Rule 25-24.515, Florida Administrative Code, warrant issuance of a show cause order. In this regard, the Commission should order CMS to show cause in writing within 21 days of the date of the order why it should not have Certificate No. 5137 canceled or be fined \$200 for apparent violation of Rule 25-24.515, Florida Administrative Code. CMS' response must contain specific allegations of fact or law. If CMS fails to respond to the show cause, and the fine is not paid after reasonable collection efforts by the Commission, certificate number 5137 should be canceled. If the fine is paid it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, then CMS will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have its certificate canceled. If CMS timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the fine is paid, it should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes and this docket should be closed. Staff recommends that if CMS fails to respond to the Order to Show Cause, and the fine is not received within five business days after the expiration of the show cause response period, CMS' certificate should be canceled and this docket closed. (J. Miller)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, then CMS will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed or have its certificate canceled. If CMS timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. If the fine is paid, it should be forwarded to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes and this docket should be closed. Staff recommends that if CMS fails to respond to the Order to Show Cause, and the fine is not received within five

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DATE: JUNE 17, 1999

business days after the expiration of the show cause response period, CMS' certificate should be canceled and this docket closed.

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DATE: JUNE 17, 1999

ATTACHMENT A

Pay Telephone Station Number	25-24.515(9)(a), Florida Administrative Code
	Location Address Not Displayed
954-462-9065	X
954-321-9245	X

From: Pat Page
To: John Miller, Theresa Johnson
Subject: fwd: CMS

===NOTE=====6/25/99==8:20am==

I have received a check for \$200 from CMS, Docket 990664. What should I do with this check since there is no Order for it yet?

Fwd=by:=Theresa=Johns=6/29/99==1:58pm==
Fwd to: Pat Page
CC: Blanca Bayo, John Miller
.....

Hello Pat,
that check can be deposited. The company was on today's agenda and the Commission approved their fine. Please deposit per docket #990664. Thank you for your patience.

T. Elaine
