

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cost recovery and
allocation issues for number
pooling trials in Florida.

DOCKET NO. 001503-TP
ORDER NO. PSC-01-0833-PCO-TP
REISSUED: April 18, 2001

REISSUANCE OF
ORDER DENYING INTERVENTION

This is a reissuance of Order No. PSC-01-0833-PCO-TP, issued April 6, 2001. Ms. Peggy Arvanitas was inadvertently omitted from the Commission mailing list and, therefore, did not receive a copy of the Order. The omission was discovered April 11, 2001, and in an effort to rectify this situation, the Order is being reissued to give Ms. Arvanitas adequate notice.

By Petition, Ms. Peggy Arvanitas has requested permission to intervene in this proceeding. Ms. Arvanitas contends that this generic docket will not only be setting rates for the east coast number pooling dockets, but also for the Tampa Bay area codes 727 and 813, which have over 60% of the numbers allocated to vendors. Ms. Arvanitas asserts that it is very likely that the outcome of this cost recovery docket will be incorporated in other areas. Ms. Arvanitas alleges that as a realtor in the Pinellas, Hillsborough, and Pasco counties, the advent of proper cost allocation for public numbers on a "competitively neutral" basis is important for her and her customers. Ms. Arvanitas further states that she has been involved in Docket No. 981444-TP, Number Utilization Study, Investigation into Number Conservation Measures. The response period has expired and no responses have been filed.

Pursuant to Rule 25-22.039, Florida Administrative Code, persons seeking to become parties in a proceeding must demonstrate that they are entitled to participate as a matter of constitutional or statutory right or pursuant to Commission rule, or that their substantial interests are subject to determination or will be affected through the proceeding. Ms. Arvanitas has not alleged that she is entitled to intervene as a matter of right or pursuant to Commission rule. It is appropriate, therefore, to apply the two-pronged test for "substantial interest" set forth in Agrico Chemical Co. v. Dept. Of Environmental Regulation, 406 So.2d 478, 482 (Fla. 2nd DCA 1981), rev. denied 415 So. 2d 1359 (Fla. 1982). See, Ameristeel Corp. v. Clark, 691 So. 2d 473 (Fla 1997).

DOCUMENT NUMBER-DATE

04788 APR 18 01

FPSC-RECORDS REPORTING

According to the Agrico test, a party must show: (1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a Section 120.57, Florida Statutes, hearing, and (2) that his substantial injury is of a type or nature which the proceeding is designed to protect. Id. At 482.

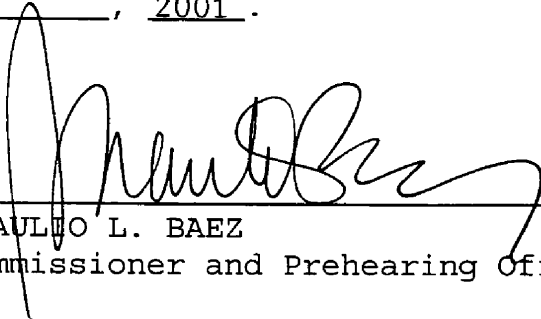
With respect to the first prong of the test, Ms. Arvanitas alleges only that it is "important" to her to have cost recovery allocation that is "competitively neutral". She has not alleged that she will suffer injury in fact which is of sufficient immediacy to entitle her to a Section 120.57, Florida Statutes, hearing. Accordingly, I find that Ms. Arvanitas has not met the first prong of the Agrico test to establish standing. It is, therefore, unnecessary to address the second prong of the Agrico test in this matter.

Ms. Arvanitas' allegation is not sufficient to support standing in this docket. Based on the foregoing, Ms. Arvanitas' Petition to Intervene in these proceedings is denied.

Based on the foregoing, it is therefore

ORDERED by Commissioner Braulio L. Baez, as Prehearing Officer, that the Motion to Intervene filed by Ms. Peggy Arvanitas is hereby denied.

By ORDER of Commissioner Braulio L. Baez, as Prehearing Officer, this 18th day of April, 2001.



BRAULIO L. BAEZ
Commissioner and Prehearing Officer

(S E A L)

PAC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.