

CCA

STATE OF FLORIDA

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DIVISION OF COMPETITIVE SERVICES
WALTER D'HAESELEER
(850) 413-6600

Public Service Commission

September 11, 2001

9/12/01
Mr. Entler -
I attempted to fax
this twice on 9/11
after I called you to
see if your fax was
working & again this
morning. It will not
go through - so I'm
mailing it. Paula

Mr. Allen Entler
Leisure Lake Co-Op, Inc.
3003 US Hwy. 41, North
Palmetto, FL 34221-5430

RE: Docket No. 010624-TC

Dear Mr. Entler:

This is a follow up to our telephone conversation concerning the above docket. This docket was opened on April 27, 2001 for nonpayment of the 2000 Regulatory Assessment Fee (RAF), which was due by January 30, 2001.

Commission records show that when this docket was established, payment for the 2000 RAF had not been paid. Payment for the 2000 RAF, including statutory penalty and interest charges, has now been received.

The Commissioners voted on this docket at the September 4, 2001 Agenda Conference to impose a \$500 fine. A Proposed Agency Action Order is scheduled to be issued by September 24, 2001. After the Order is issued, you will have 20 days to protest the Commission Order by proposing a settlement, since you told me in our conversation that the company wished to keep its certificate active.

The company should file a petition, pursuant to Rule 28-106.201, F.A.C., copy attached. This petition must be filed with the Commission **after** the Order is issued **and** within the protest period. Rule 28-106.201(2)(g), F.A.C., states that the petition must include "A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action." A sample petition is attached. Your petition should include the following elements:

- Docket number;
- Order number and issue date of the Order;
- A statement requesting that the Commission consider this a protest and/or offer of

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Mr. Allen Entler
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settlement;

- A statement that it has taken steps to prevent future late payments of the regulatory assessment fees and what those steps are;
- Make a specific monetary settlement (although the Commission imposed a \$500 fine, in other similar cases to yours, the Commission has accepted settlement proposals between \$100 and \$500); and
- A waiver of objection to the administrative cancellation of the company's certificate in the event its offer is accepted and it fails to comply with the terms which it has offered. If, however, there is a factual dispute as to the manner or level of compliance with any provision in the settlement, Commission staff will bring the matter to the Commission for consideration.

Any petition/correspondence should be addressed to Ms. Blanca Bayó, Director, Division of the Commission Clerk & Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. The proposed settlement amount should not be paid at this time. The settlement amount, if approved by the Commission, will become due after the Commissioners vote on this issue.

If you file a timely petition proposing a settlement, a new Agenda Conference date will be scheduled. At that time, the Commissioners will vote on whether or not to accept your settlement offer. An Order will then be issued and you will have 10 business days from the date of the Order to pay the settlement.

If you have any questions, just let me know. I can be reached at (850) 413-6502-voice, (850) 413-6503-fax, and by internet e-mail at pisler@psc.state.fl.us.

Sincerely,



Paula J. Isler, Research Assistant
Bureau of Service Quality

Enclosures

cc: Docket No. 010624-TC
Division of Legal Services (K. Peña)

PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT

28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 ½ by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

(4) A petition shall be dismissed if it is not in substantial compliance with subsection (2) of this rule or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured.

(5) The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable.

Sample

July 12, 2001

Ms. Blanca Bayó, Director
Division of the Commission Clerk
& Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Dear Ms. Bayo:

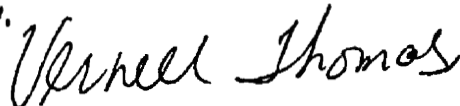
This is in response to Order No. PSC-01-1409-PAA-TC issued June 29, 2001 in Docket No. 010427-TC. Please consider this a protest and/or an offer of settlement.

We have had this pay telephone certificate since 1992 and this is the first year that the Florida Public Service Commission has had to establish a docket to collect the regulatory assessment fee. The reason I did not pay it prior to this is because I did not receive the form. After talking with Commission staff, I now understand that the form is mailed every mid-December and the fee is due by the following January 30. I will make sure that this problem does not reoccur because El Toro does want to keep its certificate active. My check in the amount of \$65.50 for the 2000 fee, including penalty and interest, is enclosed.

El Toro Barber Shop agrees to waive any objection to the administrative cancellation of its certificate should it fail to pay in accordance with its settlement offer. If, however, there is a factual dispute as to the manner or level of compliance with any provision in the settlement, it is our understanding that Commission staff will bring the matter to the Commission for consideration.

Based on this, I respectfully request that the Commission accept my proposal to pay a \$100 settlement instead of the \$500 fine imposed. Please let me know if you have any questions.

Sincerely,



Vernell Thomas
El Toro Barber Shop
4208 NW 12th Street
Lauderhill, FL 33313-5817
(954) 583-9668

DOCUMENT NUMBER-DATE

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