

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Cancellation by Florida) DOCKET NO. 930878-TC
Public Service Commission of Pay) ORDER NO. PSC-94-0182-FOF-TC
Telephone Certificate No. 2746) ISSUED: February 14, 1994
Issued to Leasorte Enterprises,)
Inc. for Violation of Rule 25-)
24.043, F.A.C., Response to)
Commission Staff Inquiries, and)
Rule 25-24.515(a) & (b), F.A.C.,)
Reporting Requirements)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

On April 19, May 20, June 4, and July 27, 1993, this Commission's Division of Consumer Affairs received complaints regarding Leasorte Enterprises, Inc. (Leasorte), the holder of Pay Telephone Certificate No. 2746. In each instance, the Staff of this Commission sent notice of the complaints to Leasorte via Certified U.S. Mail. Leasorte responded to one of Staff's letters; however, it failed to respond within fifteen days, as required under this Commission's rules. Leasorte failed to respond to the three remaining complaints whatsoever.

Staff next attempted to reach Leasorte via telephone. Staff was unable to reach Leasorte either at the telephone number reflected in this Commission's records or at a telephone number obtained from directory assistance.

Pursuant to Rule 25-24.520(1)(a) & (b), Florida Administrative Code, pay telephone providers are required to inform this Commission of any changes in their address or the name, address or telephone number of their primary Commission liaison within ten days of such change. Since Staff was unable to contact Leasorte either through the mail or by telephone, pursuant to Rule 25-24.514, Florida Administrative Code, by Proposed Agency Action

DOCUMENT NUMBER-DATE

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FPSC-PSC-94-0182-FOF-TC-REPORTING

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Order No. PSC-93-1622-FOF-TC, issued November 4, 1993, we proposed to cancel Certificate No. 2746.

By letter dated November 22, 1993, Leasorte protested PAA Order No. PSC-93-1622-FOF-TC. Although Leasorte's protest renders Order No. PSC-93-1622-FOF-TC null and void, it raises serious concerns over Leasorte's failure to respond to prior mail sent by this Commission. Under Rule 25-4.043, Florida Administrative Code, which applies to non-LEC pay telephone providers pursuant to Rule 25-24.505(1), Florida Administrative Code, pay telephone providers are required to respond to Commission Staff inquiries, in writing, within fifteen days of such inquiries.

Since Leasorte failed to respond to three Staff inquiries regarding customer complaints, it appears that it is in violation of Rule 25-4.043, Florida Administrative Code. Accordingly, we find it appropriate to require Leasorte to show cause, in writing, why it should not be fined \$500. Leasorte's response must contain specific allegations of fact and law. Should Leasorte fail to respond to this Order, such failure shall constitute an admission of the facts alleged herein, a waiver of any right to a hearing, and shall result in the automatic imposition of the penalty amount.

It is, therefore,

ORDERED by the Florida Public Service Commission that Leasorte Enterprises, Inc. shall show cause, in writing, within twenty days of the date of this Order, why it should not be fined for failing to respond to Commission Staff inquiries as required under Rule 25-4.043, Florida Administrative Code. It is further

ORDERED that Leasorte's response, if any, shall contain specific allegations of fact and law. It is further

ORDERED that, should Leasorte fail to file a timely response to this Order, such failure shall constitute an admission of the facts alleged herein, a waiver of any right to a hearing, and shall result in the automatic imposition of the penalty amount. It is further

ORDERED that, should Leasorte elect to respond to this Order by paying the appropriate penalty, this docket shall be closed upon Staff's verification of payment.

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By ORDER of the Florida Public Service Commission, this 14th
day of February, 1994.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

by: Kay Hagan
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.

This order is preliminary, procedural or intermediate in nature. 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 25-22.037(1), 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 March 7, 1994.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

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If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any 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.