

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation to) DOCKET NO. 951041-TI
determine if certificated) ORDER NO. PSC-95-1448-FOF-TI
companies should discontinue) ISSUED: November 28, 1995
providing intrastate)
interexchange telecommunications)
service to American Telephone &)
Fax for violation of Rule 25-)
24.470, F.A.C., Certificate of)
Public Convenience and Necessity)
Required.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER REQUIRING DISCONTINUANCE OF SERVICE

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 substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

In April, 1995, our Division of Consumer Affairs received information for the Attorney General that indicated American Telephone and Fax (ATF) might be providing intrastate interexchange telecommunications service. Our staff investigation indicated that ATF does not hold a Certificate of Public Convenience and Necessity to provide interexchange telecommunications service.

Rule 25-24.470, Florida Administrative Code, requires any company providing interexchange telecommunications service in Florida obtain a Certificate of Public Convenience and Necessity from this Commission. On May 2, 1995, our staff mailed ATF a certified letter informing the company that it may be in violation of Rule 25-24.470, Florida Administrative Code, and provided an application for a certificate. The certified mail receipt was signed and returned, indicating ATF had received the information.

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ATF did not respond to the letter. Telephone calls to the company were not returned.

Pursuant to Rule 25-24.4701(3), Florida Administrative Code, we can order all certified interexchange companies to discontinue service to a company that is unlawfully providing service. ATF has failed to respond to our staff in a timely manner and is apparently violating of Rule 25-24.470, Florida Administrative Code, by providing service without a certificate. Accordingly, we order all certificated telecommunications companies to discontinue providing intrastate interexchange telecommunications service to ATF.

It is, therefore,

ORDERED by the Florida Public Service Commission that American Telephone and Fax is apparently violating Rule 25.24.470, Florida Administrative Code, by providing intrastate interexchange telecommunications service without a Certificate of Public Convenience and Necessity. It is further

ORDERED that all certificated telecommunications companies are to discontinue service to American Telephone and Fax for its apparent violation of Rule 25.24.470, Florida Administrative Code, effective the date this Order becomes final. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, this Order shall become final on the following date, and this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 28th day of November, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)
LMB

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 19, 1995.

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.

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 substantially 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.