

In re: Dade County Circuit Court referral of certain issues in Case No. 94-14234-CA-22 (S.H. Dohan & Company, P.A. vs. Transcall America, Inc. d/b/a ATC Long Distance) that are within the Commission's jurisdiction.

DOCKET NO. 951270-TI
ORDER NO. PSC-97-0646-PCO-TI
ISSUED: June 6, 1997

ORDER DENYING DOHAN'S SECOND MOTION
FOR PARTIAL SUMMARY JUDGMENT

On February 19, 1997, Dohan & Company, P.A., (Dohan) filed a Motion for Partial Summary Judgment on the Issue of Liability. The Commission denied Dohan's motion by Order No. PSC-97-0554-FOF-TI, issued May 15, 1997. On May 19, 1997, Dohan filed its Second Motion for Partial Summary Judgment. Defendant Transcall America, Inc., (Transcall) filed its response on May 23, 1997.

Dohan's Second Motion for Partial Summary Judgment is substantially similar to the first Motion which was denied by the Commission in its May 15, 1997, Order. Further, in the Second Motion for Partial Summary Judgment, Dohan relied on select portions of Transcall's response to requests for admission. Review of the response in its full and complete context does not support Dohan's motion. Based on the similarities to the first Motion and the misuse of Transcall's response to Dohan's requests for admission, I find Dohan's Motion without merit. I therefore deny Dohan's Second Motion for Partial Summary Judgment for the same reasons articulated by the Commission in denying the first Motion.

It is therefore,

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that the Plaintiff Dohan's Second Motion for Partial Summary Judgment is hereby denied.

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By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 6th Day of June, 1997.


DIANE K. KIESLING
Commissioner and Prehearing Officer

(S E A L)

BC

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.

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.