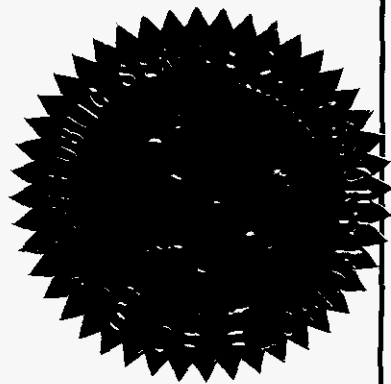


BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 090091-TC

In the Matter of:

REQUEST FOR CANCELLATION OF PATS  
CERTIFICATE NO. 8513 BY SCALA HOTEL  
GROUP, LLC, EFFECTIVE FEBRUARY 26,  
2009.



PROCEEDINGS:           AGENDA CONFERENCE  
ITEM NO. 6

BEFORE:                 CHAIRMAN MATTHEW M. CARTER, II  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER KATRINA J. McMURRIAN  
COMMISSIONER NANCY ARGENZIANO  
COMMISSIONER NATHAN A. SKOP

DATE:                   Tuesday, April 7, 2009

PLACE:                  Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY:           LINDA BOLES, RPR, CRR  
Official FPSC Reporter  
(850) 413-6734

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S

CHAIRMAN CARTER: Okay. We're back on the record. When we left we were getting ready for Item 6.

MS. ISLER: Paula Isler, staff. Item 6 is staff's recommendation to deny Scala Hotel Group a voluntary cancellation and instead cancel the certificate on the Commission's own motion for the company not paying the 2009 regulatory assessment fee.

CHAIRMAN CARTER: Thank you.

Commissioner Argenziano, you're recognized.

COMMISSIONER ARGENZIANO: Yes. Thank you, Mr. Chair. I'm in a little bit of confusion over this one. This is a small hotel I guess that had one payphone.

MS. ISLER: Correct.

COMMISSIONER ARGENZIANO: And they do not have the payphone any longer.

MS. ISLER: Correct.

COMMISSIONER ARGENZIANO: And what is the fee or the fine that they're --

MS. ISLER: The fee is \$100 a year. That's the minimum fee.

COMMISSIONER ARGENZIANO: So this probably proceeding is probably costing us more than that. I just, I think it's so trivial. They don't even have the

1 phone anymore. I don't think you can make them do  
2 anything. And it's a small guy out there and I just  
3 wonder why we're going after the small guys. Let them  
4 alone. They don't have their payphone anymore. I just  
5 don't understand it. If somebody could fill me in on  
6 it.

7 MS. ISLER: The regulatory assessment fee is a  
8 fee that is owed by all companies having a certificate  
9 from the Commission.

10 COMMISSIONER ARGENZIANO: I understand that.

11 MS. ISLER: And it's an annual fee whether you  
12 have it one day, a year or the entire year.

13 COMMISSIONER ARGENZIANO: Right. Now how long  
14 has it been since they don't have their phone anymore,  
15 their payphone?

16 MS. ISLER: I don't believe they gave me the  
17 exact date that they no longer have the payphone.

18 COMMISSIONER ARGENZIANO: I just, I just feel  
19 it's trivial. I understand that people have to pay  
20 their regulatory fees, but it's like, you know, it's  
21 just a waste of time. I don't know what you can do to  
22 force them to give you the \$100, and I think it's almost  
23 somewhat absurd.

24 So I, I would move to just forget it and say,  
25 you know, if you're not going to have a payphone -- they

1 probably don't even want to deal with a payphone  
2 anymore. And I wonder how much longer the hotel will  
3 even be in existence, to be honest with you.

4 CHAIRMAN CARTER: Commissioner McMurrin,  
5 you're recognized.

6 COMMISSIONER McMURRIAN: Commissioner  
7 Argenziano, I agree that it seems small. I guess what  
8 I'm concerned about is the -- we have these from time to  
9 time and we always sort of enforce them the same way.  
10 And I guess the consistency and the precedent, that's, I  
11 guess, what I'm worried about. It does seem trivial and  
12 so I tend to agree with you there. And you're right, I  
13 think that probably us dealing with it costs more than  
14 what it would be for them to just pay it. Of course, on  
15 the flip side of that is maybe, maybe they could just  
16 pay it because it is, it is what the law requires if  
17 they had it in service that year.

18 But I guess do we know if -- you said you  
19 don't know when they actually got rid of the phone,  
20 because they're required under the law to tell us when  
21 they're no longer wanting to be a certificated provider.  
22 Or maybe not certificated anymore -- yes, certificated  
23 provider of payphone service.

24 MS. ISLER: Correct.

25 COMMISSIONER McMURRIAN: So the statute puts

1 it on them or is that our rules that puts it on them?  
2 Where -- there's something that tells them when they  
3 sign up to be a provider that they need to inform us  
4 when they no longer want to be.

5 MS. ISLER: It's by rule.

6 COMMISSIONER McMURRIAN: Okay. But that's, of  
7 course, pursuant to -- I mean, that's under our  
8 authority under the statute to set that in place.

9 I guess that's just my concern is that if we  
10 make an exception for this one, should we make an  
11 exception every time and just how do we deal with that?  
12 And so I guess that's, that's my concern, even though I  
13 agree with you that it's pretty trivial.

14 COMMISSIONER ARGENZIANO: Mr. Chair.

15 CHAIRMAN CARTER: Commissioner Argenziano.

16 COMMISSIONER ARGENZIANO: What is the  
17 repercussions if they don't pay?

18 MS. ISLER: We cancel their certificate.

19 COMMISSIONER ARGENZIANO: See what I'm saying?  
20 It's just ridiculous. Is that all that we can do?  
21 You're going to go after them legally and cost -- you  
22 know, what do you do?

23 MS. ISLER: If a company had not contacted us  
24 and requested cancellation, eventually they would have  
25 been fined \$500 for a first offense for not complying

1 with the regulatory assessment fee rule, but that would  
2 have been sometime next year.

3 COMMISSIONER ARGENZIANO: So they did call and  
4 tell you they didn't want to be --

5 MS. ISLER: I contacted them because the  
6 delinquent notices were going out, and I contacted the  
7 company and said the delinquent notices are going out  
8 and you need to comply within 15 days in order to avoid  
9 the automatic fine, because the fines are automatic.  
10 And that's when they contacted me back and said we no  
11 longer -- we sold our payphones and we no longer want  
12 our certificate.

13 COMMISSIONER ARGENZIANO: Well, at this point  
14 then what would be the -- what would you do to collect  
15 the \$100? Because you're not going to start fines now  
16 because they told you they didn't want their certificate  
17 anymore.

18 MS. ISLER: Right. This is turned over to  
19 collections by Fiscal Services.

20 COMMISSIONER ARGENZIANO: I can't help it.  
21 I'm sorry. I know, I know we have rules in place and  
22 they should be, should be adhered to. But it just seems  
23 that sometimes for the smaller companies we sock it to  
24 them and the bigger companies maybe sometimes are  
25 allowed to get away with, not allowed to get away with,

1 but we don't maybe scrutinize as much. Or I just think  
2 that to go after \$100, I don't know if it's the PSC's  
3 job to do that. So I'm not sure what --

4 MS. SALAK: We actually send it to Financial  
5 Services, which is another agency, and they choose  
6 whether to go after it or not.

7 COMMISSIONER ARGENZIANO: Right. I think  
8 they --

9 MS. SALAK: And, quite frankly, I don't think  
10 they do, but.

11 COMMISSIONER ARGENZIANO: Right. I think that  
12 they would find that it probably costs more to go after  
13 it, and I think that's the frustration I'm expressing is  
14 that for \$100 what are you really going to do? And if  
15 they don't even want the phone anymore, it's just --

16 MS. SALAK: Right. But we do send it to  
17 Financial Services.

18 COMMISSIONER ARGENZIANO: Okay. Well,  
19 that's --

20 MS. SALAK: And so I think it's out of our  
21 hands at that time when we aren't spending anymore  
22 resources on it.

23 COMMISSIONER ARGENZIANO: Well, then that's  
24 the way to go I guess.

25 CHAIRMAN CARTER: One second. Let's hear from

1 Mr. Hill, Chuck Hill.

2 MR. HILL: Yeah. Mr. Chairman, if I may, I  
3 certainly agree as well. I just recall at one point the  
4 Auditor General, when they were looking at the agency --  
5 because in the past we would, the Commission would  
6 dismiss these things. And the Auditor General said, you  
7 really shouldn't be doing that. You should be turning  
8 it over to DFS for them to decide whether it's worth  
9 collecting or not. So I just wanted to add that in that  
10 the AG did dig us at one point on this.

11 COMMISSIONER ARGENZIANO: Yeah. And the AG,  
12 I'd like to talk to the AG too because I remember in the  
13 Legislature we talked about going after such trivial  
14 things that were actually costing us more money or  
15 costing the taxpayer more money. Not that it's  
16 forgiven. I mean, what do you do? But at some point  
17 logic sets in. But I understand the position the PSC is  
18 in. The AG says, hey, send it over there. And that's  
19 what I was trying to get at. And if they take it, I'm  
20 pretty sure that they'll look at it and if it's worth  
21 it, they'll go after it. If it's not, then -- thank  
22 you.

23 CHAIRMAN CARTER: Commissioner Skop.

24 COMMISSIONER SKOP: Thank you, Mr. Chair.

25 I agree, at the end of the day it's the



1 Department of Financial Services and they make the  
2 decision whether to go after it or pursue it or not. It  
3 all comes down to the dollar amount in question and the  
4 merits of being able to recover the amount in question.

5 My concern again would be the diligence of the  
6 Commission to the extent that we turn it over -- at  
7 least from an internal audit or an overview perspective,  
8 at least we're construed as being diligent and  
9 protecting the state's interests in the amounts that  
10 would be due to the state or the Commission. So I'm  
11 pretty comfortable with it. And, again, I'm comfortable  
12 as long as we do our job. It's up to the Department of  
13 Financial Services to make their own determination.

14 CHAIRMAN CARTER: Thank you. I thank you,  
15 Mr. Hill for giving us that. I was wondering why we  
16 would do this. And I guess we don't want to get gigged  
17 by the Auditor General.

18 Commissioner Skop.

19 COMMISSIONER SKOP: And I think that's a good  
20 entry point to the comments I'm going to make on Items 7  
21 and 9 because I have a similar concern on those.

22 CHAIRMAN CARTER: Okay. All right. We're in  
23 discussion. But I did want to say that, hmm, you know,  
24 when -- Commissioner Argenziano.

25 COMMISSIONER ARGENZIANO: It's just,

1 Mr. Chair, when you read it, it's like, okay, so they  
2 gave up their phone. All we can really do is withhold  
3 the certificate that they don't want anyway. So it kind  
4 of seems absurd. But I understand that we're in a  
5 Catch-22 that that's what we have to do and people need  
6 to follow the rules. But at the same time, you know, I  
7 don't even know -- I have this vision of this tiny  
8 little hotel. And I could be wrong, but usually a  
9 larger hotel has more than one payphone. And I just,  
10 you know, I can see these people struggling out there  
11 thinking the PSC is going to come after me for \$100, you  
12 know? And I could see that making headlines. The PSC  
13 has nothing better to do than go after -- and it cost  
14 the taxpayer \$5,000 to get the \$100, you know, that kind  
15 of thing. But I understand the position we're in, and  
16 let DFS deal with it.

17 CHAIRMAN CARTER: Commissioner Skop.

18 COMMISSIONER SKOP: I was just going to add is  
19 that like the little hotel like the Hotel California, I  
20 remember that little album cover in there had one of  
21 those little payphones.

22 CHAIRMAN CARTER: Yeah. Most hotels have a  
23 bank of, several banks of payphones. If you've been  
24 down to anywhere near Disney, you'll see.

25 Commissioner -- Mr. Hill.

1           MR. HILL: Yes. I do recall on occasion the  
2 Commission has sent things over to DFS with a  
3 recommendation that it be, that they not seek collection  
4 and that it be written off. So I believe you could do  
5 that in this instance as well, if you wanted.

6           COMMISSIONER ARGENZIANO: I'll leave it up to  
7 them.

8           CHAIRMAN CARTER: You said you'll leave it up  
9 to them?

10          COMMISSIONER ARGENZIANO: Mr. Chair, I think  
11 that they would -- I know that there was legislative  
12 discussion quite some time ago with DFS on small things  
13 that actually were costing more money, and I think they  
14 have, I think they've got it down pat. I think they  
15 know what to do with it.

16          CHAIRMAN CARTER: Okay. Anything --  
17 Commissioner McMurrian, you're recognized. And I'm  
18 just, I guess I'm ready to make a motion. But I guess  
19 on that note about DFS, it seems like it's best to leave  
20 it up to them as well because they may have some of the  
21 same issues that we do in trying to be consistent in how  
22 they apply some of their rules and collection practices  
23 and such. But if there's no other discussion, I could  
24 move the staff recommendation.

25          CHAIRMAN CARTER: You are recognized for a

1 motion.

2 COMMISSIONER McMURRIAN: I move the staff  
3 recommendation.

4 COMMISSIONER SKOP: Second.

5 CHAIRMAN CARTER: Commissioners, it's been  
6 moved and properly seconded that we adopt staff's  
7 recommendation on this item, Number 6. Any further  
8 discussion? Any further debate? Hearing none, all in  
9 favor, let it be known by the sign of aye.

10 (Unanimous affirmative vote.)

11 All those opposed, like sign. Show it done.

12 (Agenda Item 6 concluded.)

13

14

15

16

17

18

19

20

21

22

23

24

25


1 STATE OF FLORIDA )  
 2 : CERTIFICATE OF REPORTER  
 3 COUNTY OF LEON )

4 I, LINDA BOLES, RPR, CRR, Official Commission  
 5 Reporter, do hereby certify that the foregoing  
 6 proceeding was heard at the time and place herein  
 7 stated.

8 IT IS FURTHER CERTIFIED that I  
 9 stenographically reported the said proceedings; that the  
 10 same has been transcribed under my direct supervision;  
 11 and that this transcript constitutes a true  
 12 transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,  
 14 employee, attorney or counsel of any of the parties, nor  
 15 am I a relative or employee of any of the parties'  
 16 attorneys or counsel connected with the action, nor am I  
 17 financially interested in the action.

18 DATED this 16<sup>th</sup> day of April, 2009.

19   
 20 \_\_\_\_\_  
 21 LINDA BOLES, RPR, CRR  
 22 FPSC Official Commission Reporter  
 23 (850) 413-6734  
 24  
 25