

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Pay)
Telephone Certificate.)
)
BAILEY'S GROCERY) DOCKET NO. 930480-TC
)
) ORDER NO. PSC-93-1415-FOF-TC
) ISSUED: September 29, 1993

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING APPLICATION FOR
PAY TELEPHONE CERTIFICATE

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

On May 14, 1993, Leroy Bailey d/b/a Bailey's Grocery filed an application for a certificate to provide pay telephone service. Upon review, the Staff of this Commission (Staff) discovered several deficiencies. For instance, the application stated that Mr. Bailey intended to do business under the name of Bailey's Grocery. However, Mr. Bailey failed to provide any evidence of his registration of the fictitious name. In addition, Staff noted that, in 1989, the Commission issued Certificate No. 2273 to a "Bailey's Grocery", at the same address. Certificate No. 2273 was subsequently cancelled for failure to file an annual report.

By letter dated May 20, 1993, Staff informed Mr. Bailey that he needed to document his registration of the fictitious name before the Commission would issue a certificate. Staff requested that Mr. Bailey provide such documentation by June 8, 1993. On June 9, 1993, Mr. Bailey responded to Staff's letter via facsimile transmission. However, his response still did not include any

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indication that the name "Bailey's Grocery" is registered in accordance with the fictitious names statute.

Next, Staff contacted the applicant by telephone. Mr. Bailey did provide a fictitious name registration number, however, upon verification, Staff discovered that the reported number did not exist and that the name "Bailey's Grocery" was not, in fact, registered with the Department of State, Division of Corporations, as required by law.

By letter dated June 22, 1993, Staff again explained that Mr. Bailey would have to document a valid name before the Commission would issue a certificate. Staff also informed Mr. Bailey that, if he did not file such information on or before July 20, 1993, Staff would recommend that the application be denied and the docket be closed. On July 19, 1993, Mr. Bailey telephoned Staff and provided a corporate registration number. Again, Staff was unable to verify the information with the Division of Corporations.

Mr. Bailey then decided that he would refile the application in his own name. Staff sent a blank application to Mr. Bailey, via certified mail, on July 20, 1993. According to the receipt card, the application was delivered on July 22, 1993. In a letter accompanying the application, Staff requested that Mr. Bailey complete and file his application by August 16, 1993. As of September 7, 1993, we still had not received an application in Mr. Bailey's name.

Since the original application is deficient, and since Mr. Bailey has made no serious attempt to comply with Staff requests in a complete and timely manner, we find it appropriate to deny the application by Leroy Bailey d/b/a Bailey's grocery for a certificate to provide pay telephone service.

It is, therefore,

ORDERED by the Florida Public Service Commission that the application by Leroy Bailey d/b/a Bailey's Grocery for a certificate to provide pay telephone service is hereby denied. It is further

ORDERED that, unless a person whose interests are adversely 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, this docket shall be closed on the following date.

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By ORDER of the Florida Public Service Commission this 29th
day of September, 1993.

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.

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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 20, 1993.

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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 adversely 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.