

MEMORANDUM

June 16, 1998

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RECORDS AND REPORTING

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TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BEDELL) *JB*

RE: DOCKET NO. 971659-TP - Orange County Circuit Court referral of issues in Case No. CI 96-1812 (Wellington Property Management, Inc. and Emerson Communications Corporation vs. Parc Corniche Condominium Association, Inc. and Orange County, Florida) to the Florida Public Service Commission for review and determination of what issues, if any, the Commission has jurisdiction over.

Attached is a LETTER TO JUDGE TURNER which was mailed in the above-referenced docket. (Number of pages in letter - 2)

CB/slh
Attachment
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STATE OF FLORIDA



Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

June 12, 1998

Honorable W. Rogers Turner
Circuit Court Judge
Ninth Judicial Circuit
37 North Orange Avenue
Orlando, FL 32801

Re: Wellington v. Parc Corniche
Orange County Case No. CI 96-1812
PSC Docket No. 971659-TP

Dear Judge Turner:

Pursuant to your Order of November 4, 1997, in the above-referenced case, the Florida Public Service Commission reviewed the issues raised by the Orange County litigation and determined the issues over which it has jurisdiction. The Commission's decision is memorialized in PSC Order No. PSC-98-0699-FOF-TP, issued May 20, 1998 (attached), and made final June 10, 1998. In essence, the Order specifically addresses your questions and PSC jurisdiction as follows:

1. Whether Wellington and Emerson are "telecommunications companies" within the meaning of Section 364.02(7), Florida Statutes.

Response: Wellington and Emerson may be telecommunications companies under Florida law. We do not have enough information, however, to make a final determination at this time. Emerson and Wellington have agreed to cooperate in the PSC application process to determine the need for certification. An application package was sent to counsel for Emerson and Wellington on April 2, 1998.

2. Whether Wellington and Emerson obtained a Certificate of Necessity as required by Section 364.33, Florida Statutes and Rule 25-4.004, Florida Administrative Code.

Response: Neither Wellington nor Emerson have certificates from the Commission.

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3. Whether Wellington and Emerson have authority to own the television and telephone lines.

Response: Wellington and Emerson would have been precluded from owning telecommunications lines under Teleco Communications Company v. Clark, 695 So.2d 304 (Fla. 1997), and Chapter 364, Florida Statutes, as written prior to the 1995 amendments and as applied in the Teleco decision. The rewrite of the statutes opened telecommunications services in Florida to competition and permitted the entry into the market of entities previously precluded. Thus, depending on the services, equipment and lines provided by Wellington and Emerson, they may be permitted to own the lines up to the demarcation point and to provide telecommunications services. However, this issue will not be addressed by the PSC until their application is received and processed. We intend to exercise jurisdiction over the telephone lines in the Parc Corniche condominium, but we do not have jurisdiction to rule on any issue related to cable television lines.

Once Commission staff has investigated the facts on the provision of telephone services at Parc Corniche, a recommendation will be prepared for consideration by the Commission. The Commission will keep the parties and your office informed of all decisions in this matter. If you should need any further information, please do not hesitate to contact us.

Sincerely,



Catherine Bedell
Senior Attorney

CB:slh

Enclosure

cc: Houston E. Short, Esq.

Stephanie A. Yelenosky, Esq.

Thomas Williams, Engineer IV, Division of Communications

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