

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 930318-TC
certificate to provide pay)
telephone service by EL)
SUBMARINO, INC. D/B/A OSTERIA EL)
SUBMARINO I.)
_____))
In Re: Application for) DOCKET NO. 930319-TC
certificate to provide pay) ORDER NO. PSC-93-0678-FOF-TC
telephone service by EL) ISSUED: May 4, 1993
SUBMARINO, INC. D/B/A OSTERIA EL)
SUBMARINO II.)
_____))

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING APPLICATIONS FOR
CERTIFICATES TO PROVIDE PAY TELEPHONE SERVICES

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.

By Order No. 16713, issued November 1, 1986, this Commission issued Certificates Nos. 1296 and 1278 to Calamar Inn Corporation d/b/a El Submarino I Restaurant (El Submarino I), and La Osteria Inn d/b/a El Submarino II (El Submarino II), respectively, for the purpose of providing pay telephone services in Florida.

El Submarino I and El Submarino II failed to file annual reports for 1987, in violation of Rule 25-24.520, Florida Administrative Code. Accordingly, by Order No. 20478, issued December 20, 1988, we required El Submarino I, and by Order No. 20830, issued March 1, 1989, we required El Submarino II, to show cause why they should not be fined or, in the alternative, have their certificates revoked. El Submarino I and El Submarino II neither filed responsive pleadings to the orders to show cause nor paid the resultant regulatory penalties. Therefore, we cancelled

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Certificate No. 1296 on January 11, 1989, and Certificate No. 1278 on March 27, 1989.

On March 23, 1993, this Commission received applications for new certificates to provide pay telephone services from El Submarino, Inc. d/b/a El Submarino I and El Submarino II.

According to Rule 25-24.511(4), Florida Administrative Code, this Commission will not grant a new certificate "to any applicant who has previously had a certificate involuntarily cancelled unless the applicant shows that granting of the new certificate is in the public interest." We do not believe, and the applicant herein has not demonstrated, that granting a new certificate is in the public interest.

We note that, in the current applications, El Submarino, Inc. denied ever having had a regulatory penalty imposed. Since Orders Nos. 20478 and 20830 imposed penalties of \$100 each upon failure to submit a responsive pleading, El Submarino, Inc.'s representations are factually and facially incorrect.

Therefore, based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the applications for certificates to provide pay telephone service filed by El Submarino, Inc. d/b/a El Submarino I and El Submarino II, are hereby denied. It is further

ORDERED that these dockets will be closed unless a person whose interests are substantially affected by this Order files an appropriate pleading prior to the expiration of the protest period, as specified in the Notice of Further Proceedings, below.

By ORDER of the Florida Public Service Commission this 4th day of May, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
RJP

by: Kay Flynn

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 May 25, 1993.

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.