

VOTE SHEET

APRIL 28, 1998

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.

Issue 1: Over what issue or issues raised by Wellington and Emerson in Circuit Court Case No. CI 96-1812 does the PSC have jurisdiction?

Recommendation: The PSC has exclusive jurisdiction over the subject telephone lines up to the demarcation point, over the owners and lessees of the lines if they bill for services, and over any transfer of ownership of the lines. The PSC does not have jurisdiction over cable television lines or issues arising out of Chapter 718, Florida Statutes. The Commission should inform the Court of its intent to exercise jurisdiction in this matter and answer the Court's specific questions as set forth in the analysis portion of staff's 4/16/98 memorandum.

APPROVED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

[Handwritten signatures in majority column]

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

04761 APR 29 88

FPSC-RECORDS/REPORTING

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Issue 2: Should the Motion for Enlargement of Time filed by Wellington and Emerson be granted?

Recommendation: Yes, the Motion for Enlargement of Time within which to file a response to Parc Corniche's Complaint filed at the PSC should be granted.

APPROVED

Issue 3: How should the Commission rule on the PSC Complaint filed by Parc Corniche?

Recommendation: If the Commission accepts staff's recommendation in Issue 1, then the Commission will be, in effect, granting Parc Corniche's request to take jurisdiction over the issues before the Circuit Court to the extent described above. A determination over the ownership of the telephone lines should be deferred until the Commission conducts a complete review of the telephone lines, equipment, and service at Parc Corniche Condominium. The Commission is without jurisdiction to make a determination on the ownership of the cable television lines.

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Issue 4: Should Wellington and Emerson file an application for a Certificate of Necessity pursuant to the provisions of Ch. 364, Florida Statutes?

Recommendation: Yes, Wellington and Emerson should be required to file a completed application within thirty days of the date of the order issued on this recommendation. Counsel for Wellington and Emerson was very cooperative when contacted concerning the application process. An application package has already been sent to counsel for Emerson and Wellington.

APPROVED

Issue 5: Should this docket be closed?

Recommendation: No. The docket should remain open until all pending issues are resolved.

APPROVED