

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause Proceedings Against )  
the following Companies for Violation of )  
Commission Rule 25-24.520, F.A.C., 1989 )  
Annual Report Requirements for Pay )  
Telephone Service Companies. )  
) )  
D&E STOP & SHOP ) DOCKET NO. 900364-TC  
) ORDER NO. 23417  
) ISSUED: 8=29=90

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman  
THOMAS M. BEARD  
BETTY EASLEY  
GERALD L. GUNTER  
FRANK S. MESSERSMITH

ORDER INITIATING SHOW CAUSE PROCEEDINGS

DEMAND FOR RESPONSE WHY A FINE SHOULD NOT BE IMPOSED  
OR IN THE ALTERNATIVE, WHY CERTIFICATE SHOULD NOT  
BE CANCELLED FOR FAILURE TO FILE ANNUAL REPORTS

BY THE COMMISSION:

Rule 25-24.520, Florida Administrative Code, requires the filing of annual reports with the Commission, due January 31st. As a certificated Pay Telephone Service (PATS) provider, D&E Stop & Shop (D&E) is subject to the jurisdiction of this Commission and has failed to file the required report. Notices were sent on December 21, 1990 and February 6, 1990, respectively, requesting compliance within 20 days of each notice. As of June 12, 1990, D&E had not responded. Its certificate number is 1837.

Pursuant to Section 364.285, Florida Statutes, this Commission is authorized to levy a fine of up to \$5,000 for each violation of a statute, rule or order subject to the Commission's jurisdiction or to revoke a certificate of public convenience and necessity. Accordingly, we find it appropriate to require the D&E to show cause in writing why it should not be fined \$100, or in the alternative, have its certificate revoked for failure to file its 1989 Annual Report as required by Rule 25-24.520. Any response to this Order to Show Cause

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07774 AUG 29 1990

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shall be filed in conformance with Rules 25-22.036(7)(a) and 25-22.037(1), Florida Administrative Code. The response shall contain specific statements as to fact and law.

If the Company fails to respond to this show cause in the form and within the time limits prescribed, the facts alleged in this Order shall be deemed true and shall constitute an admission of guilt of the violation of Rule 25-24.520 and a waiver of the right to a hearing. If no response is received from a company, we find it appropriate that no fine be imposed and that the company's certificate is hereby cancelled.

If D&E desires to avoid the potential of either a fine or revocation of its certificate as a result of this show cause order it may request voluntary cancellation of its certificate. If D&E requests cancellation of its certificate, this show cause order is withdrawn. A request for cancellation pursuant to this Order shall be filed within the time limits set forth herein. A request for cancellation of a certificate must include (a) a statement of intent and date to pay Regulatory Assessment Fee and (b) a statement of why the certificate is proposed to be cancelled. Payment of fine or a written request to cancel a certificate should be mailed to:

Director of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

Therefore, based on the foregoing, it is

ORDERED by the Florida Public Service Commission that D&E shall show cause in writing why it should not be fined \$100 or, in the alternative, have its certificate revoked for failure to file the reports required by Rule 25-24.520, Florida Administrative Code, or return a written request that its certificate be cancelled and the docket will be administratively closed. It is further

ORDERED that any response filed by any company described in the body of this Order must contain specific statements as to fact and law. It is further

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ORDERED that a response or a request for cancellation shall be filed within 20 days of the date of this Order. It is further

ORDERED that upon receipt of a response as outlined above, and upon the D&E Stop & Shop request for a hearing, further proceedings will be scheduled by the Commission, at which time the Company will have an opportunity to contest the violations alleged above. It is further

ORDERED that D&E's failure to respond in the form and within the prescribed time will constitute an admission of the facts alleged above and a waiver of the right to a hearing. It is further

ORDERED that if no timely response to this Order is filed by D&E described herein, that Company's certificate is hereby revoked as set forth in the body of this Order.

By ORDER of the Florida Public Service Commission,  
this 29th day of August, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

JKA

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.

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This order is preliminary, procedural or intermediate in nature. 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 25-22.037(1), 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 September 18, 1990.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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.