

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)
proceedings against KL INDUSTRIES,)
INC. for violation of Commission Rule)
25-24.515, F.A.C., Pay Telephone)
Service.)
_____)

DOCKET NO. 910087-TC
ORDER NO. 24341
ISSUED: 4/9/91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
GERALD L. GUNTER
MICHAEL MCK. WILSON

ORDER INITIATING SHOW CAUSE PROCEEDINGS

KL Industries, Inc. (KL) has been a certificated pay telephone service provider since August 6, 1987. As a certificated pay phone provider, KL is subject to our jurisdiction pursuant to Chapter 364.01, Florida Statutes.

William Logan filed a complaint against KL Industries on November 8, 1990. In his complaint, Mr. Logan alleged that the pay telephone he used started timing his call from the time he started dialing. Even though Mr. Logan's call was not completed, the telephone kept his coins. Rule 25-24.515(2), Florida Administrative Code, provides:

Each telephone station shall return any deposited amount if the call is not completed, except messages to a Feature Group A access number.

There is no indication that Mr. Logan was calling a Feature Group A access number.

The complaint form, together with a request for information, was sent to Mr. Kah Lee, President of KL Industries. Mr. Lee filed a response on November 6, 1991. Mr. Lee reported that the pay telephones in question were checked and found to be functioning properly.

After receiving Mr. Lee's response, our staff conducted a follow-up service evaluation. This evaluation indicated that both pay telephones at the location in question were failing to return

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coins after a call was not completed. This was in direct contradiction to the response filed by Mr. Lee.

The evidence presented to us thus far in this proceeding indicates that the telephones in question were being operated in violation of Rule 25-24.515(2). Furthermore, it appears that Mr. Lee's response was a deliberate attempt to mislead our staff with regard to the facts alleged. We find such misrepresentation to be a serious aggravating factor compounding not only the severity of the violation but the amount of the appropriate fine.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that KL Industries, Inc. be required to show cause why it should not be fined \$2,000 for violation of Rule 25-24.515(2). It is further

ORDERED that KL Industries shall show cause why they should not be required to certify that all its telephones have been checked and brought into compliance with the rules regulating pay telephone providers. It is further

ORDERED that failure to respond in writing to this Order shall be deemed a default and will result in cancellation of PATS Certificate No. 1636 held by KL Industries, Inc. It is further

ORDERED that any response to this Order shall comply with the requirements set forth below.

ORDERED that this docket shall remain open pending resolution of the show cause process.

By ORDER of the Florida Public Service Commission, this 9th day of APRIL, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

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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.

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 April 29, 1991.

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.

M E M O R A N D U M

April 9, 1991

TO : DIVISION OF RECORDS AND REPORTING
FROM : DIVISION OF LEGAL SERVICES (ADAMS) *of KA*
RE : DOCKET NO. 910087-TC - INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST KL INDUSTRIES, INC. FOR VIOLATION OF
COMMISSION RULE 25-24.515, F.A.C., PAY TELEPHONE SERVICE.

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Attached is an ORDER INITIATING SHOW CAUSE PROCEEDINGS in the above-referenced docket, which is ready to be issued.

JKA/ttl
Attachment

cc: Division of Communications

910087a.tl

RECEIVED

APR - 9 1991

FPSC-RECORDS / REPORTING

3:00 pm - mail

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