

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause	)	DOCKET NO. 910279-TC
proceedings against LYNDON C. SCHERR	)	ORDER NO. 25198
for violation of Rule 25-24.520,	)	ISSUED: 10/10/91
Annual Report Requirement.	)	
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 SUSAN F. CLARK  
 J. TERRY DEASON  
 BETTY EASLEY  
 MICHAEL McK. WILSON

FINAL ORDER RESOLVING  
SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Lyndon C. Scherr (Mr. Scherr) has been a certificated pay telephone service (PATS) provider since October 20, 1987. As a certificated PATS provider, Mr. Scherr is subject to our jurisdiction.

On May 10, 1991, we issued Order No. 24510 requiring Mr. Scherr to show cause why he should not be fined \$250 for failure to file an Annual Report for 1990 as required by Rule 25-24.520, Florida Administrative Code. Order No. 24510 also provided that if Mr. Scherr elected to cancel his PATS certificate, no fine would be imposed. Finally, Order No. 24510 provided that if Mr. Scherr failed to file a timely response, its certificate would be canceled and this docket closed.

On May 28, 1991, Mr. Scherr filed a response to Show Cause Order No. 24510. In his response, Mr. Scherr stated that he failed to file the Annual Report on time because he was out of state and he had failed to mail it on time. Mr. Scherr also stated that he felt the fine was excessive.

Mr. Scherr has failed to make any defense sufficient to possibly setting aside the proposed fine. The amount proposed is well within our authority. Furthermore, in view of the number of late filed reports, the amount is appropriate. Mr. Scherr's response constitutes an admission of the facts alleged, a default, and a waiver of the right to a hearing.

DOCUMENT NUMBER-DATE

10077 OCT 10 1991

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Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Lyndon C. Scherr shall, within 30 days, pay the \$250 fine proposed in Order No. 24510 or, in the alternative, voluntarily cancel his Certificate of Public Convenience and Necessity No. 1697. It is further

ORDERED that if Lyndon C. Scherr elects to voluntarily cancel his certificate, the \$250 fine shall not be imposed, but he shall still be liable for the 1991 Regulatory Assessment Fee. It is further

ORDERED that if Lyndon C. Scherr fails to respond to this Order, his Certificate of Public Convenience and Necessity No. 1697 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 10th day of OCTOBER, 1991.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

JKA

by: Kay Hizon  
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.

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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.