

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910312-TC
proceedings against PAY PHONE SYSTEMS)	
SERVICES for violation of Commission Rule)	ORDER NO. 25397
25-24.520, F.A.C., 1990 Annual Report,)	
and Rule 25-4.043, F.A.C., Response)	ISSUED: 11/25/91
Requirement.)	
)	

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:

Pay Phone Systems Services (PPS) has been a certificated pay telephone service (PATS) provider since February 28, 1986. As a certificated PATS provider, PPS is subject to our jurisdiction.

On May 13, 1991, we issued Order No. 24519 requiring PPS to show cause why it 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. 24519 also provided that if PPS elected to cancel its certificate, no fine would be imposed. Finally, Order No. 24519 provided that if PPS failed to file a timely response, its certificate would be canceled and this docket closed.

On June 4, 1991, PPS filed a response to Order No. 24519. PPS essentially argued that its failure to file the Report was unintentional and the result of having never received a report form. PPS offered to fill out a report and requested a form. PPS requested no relief from the fine.

PPS has argued no issues of either law or fact sufficient to justify relief from the proposed fine. We have frequently ruled that the Annual Report Requirement is an affirmative duty and not contingent upon receiving a form. We have held that such blank forms are sent to PATS providers merely as a convenience and a courtesy. PPS' response is effectively an admission of the facts alleged in Order No. 24519, a default and a waiver of the right to a hearing.

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Based on the foregoing, it is


ORDERED by the Florida Public Service Commission that Pay Phone Systems Services shall pay the \$250 fine imposed in Order No. 24519. It is further

ORDERED that if Pay Phone Systems Services elects to voluntarily cancel its certificate, no fine shall be imposed but the Company shall still be liable for 1991 Regulatory Assessment Fees. It is further

ORDERED that if Pay Phone Systems Services fails to respond to this Order, Certificate No. 620 shall be canceled and this docket closed. It is further

ORDERED that this docket shall remain open 30 days to allow for payment of the fine or cancellation of the certificate and then this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 25th day of NOVEMBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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

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hearing or judicial review will be granted or result in the relief sought.

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.