



# Public Service Commission

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** June 30, 2000  
**TO:** Steve Tribble, Director of Administration  
**FROM:** Donna Clemons, Staff Counsel *gmc/pk*  
**RE:** Docket No. 000034-TI -Initiation of show cause proceedings against Carib Comm, Limited Partnership for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries; and fine assessment for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

On February 22, 2000, the Commission issued Order No. PSC-00-0373-SC-TI, in which, among other things, it assessed, as proposed agency action, a \$500 fine against Carib Comm, Limited Partnership (Carib) for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

Pursuant to the Order, the proposed agency action assessing the fine becomes final and effective upon issuance of a consummating order, unless protested. No timely protest was filed, and on March 20, 2000, Consummating Order No. PSC-00-0570-CO-TI was issued, making the fine amount final and effective. On June 29, 2000, amendatory Order No. PSC-00-0373A-SC-TI was issued, providing that in the event the company failed to pay in accordance with Order No. PSC-00-0373-SC-TI, the \$500 fine plus statutory penalty and interest charges shall be forwarded to the Office of the Comptroller for collection.

To date, Carib has not remitted the \$500 fine plus statutory penalty and interest charges. Therefore, we submit this matter to your office for approval to forward the account to the Department of Banking and Finance, Comptroller's Office, for further collection efforts or permission to write-off the account.

The events leading to our determination are outlined below for your convenience.

1. On August 2, 1999, our Division of Telecommunication (CMU) staff mailed a certified letter to Carib requesting information pertaining to Carib's operator service provider rates listed in its tariff. Our staff requested a written response by August 17, 1999. The letter was signed for and received by Carib on August 5, 1999. Carib, however, failed to respond to the letter.

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2. On January 10, 2000, our Division of Administration notified our CMU staff that Carib had a delinquent balance relating to its 1997 regulatory assessment fees, including statutory penalties and interest. Additionally, Carib had failed to remit statutory penalties and interest for the years 1994 and 1995 for the late filing of its regulatory assessment fees.

Please find the following attached hereto:

- (a) Order No. PSC-00-0373-SC-TI
- (b) Order No. PSC-00-0570-CO-TI
- (c) Order No. PSC-00-0373A-SC-TI
- (d) State of Florida Office of the Comptroller Bureau of Auditing Delinquent Accounts Receivable Transmittal

Carib's last known mailing address:

Carib Comm, Limited Partnership  
12972 S.W. 133rd Court  
Miami, FL 33186-5806

DMC

cc: Division of Records and Reporting  
Division of Competitive Services (Kennedy)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause Proceedings Against Carib Comm, Limited Partnership for Apparent Violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries and Fine Assessment for Violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 000034-TI  
ORDER NO. PSC-00-0373-SC-TI  
ISSUED: February 22, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.

ORDER TO SHOW CAUSE, REQUIRING RESPONSE, AND NOTICE OF PROPOSED  
AGENCY ACTION ASSESSING FINE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the proposed agency action discussed herein, assessing a fine upon Carib Comm, is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code.

A. BACKGROUND

Carib Comm, Limited Partnership (Carib or company) currently holds Florida Public Service Commission Interexchange Telecommunications Certificate No. 3569, issued by this Commission on July 21, 1994. On January 23, 1999, Carib filed a 1998 regulatory assessment fee return, and reported revenues of \$30,506.98.

On August 2, 1999, our Division of Telecommunications (CMU) staff mailed a certified letter to Carib, attached hereto as Exhibit A and incorporated herein by reference, requesting

ORDER NO. PSC-00-0373-SC-TI  
DOCKET NO. 000034-TI  
PAGE 2

information pertaining to Carib's operator service provider rates listed in its tariff. Our staff requested a written response by August 17, 1999. The letter was signed for and received by Carib on August 5, 1999. Carib, however, failed to respond to the letter.

On January 10, 2000, our Division of Administration notified our CMU staff that Carib had a delinquent balance relating to its 1997 regulatory assessment fees, including statutory penalties and interest. Additionally, Carib had failed to remit statutory penalties and interest for the years 1994 and 1995 for the late filing of its regulatory assessment fees.

B. SHOW CAUSE

By failing to respond to our staff's August 2, 1999, letter, it appears that Carib is in apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Rule 25-4.043, Florida Administrative Code, states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

By Section 364.285, Florida Statutes, we are authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, we nevertheless found it appropriate to order the company to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and

this is distinct from intent to violate a rule." Thus, any intentional act, such as Carib's conduct at issue here, would meet the standard for a "willful violation." We find that Carib's conduct in failing to respond to our staff's inquiries in apparent violation of Commission Rule 25-4.043, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes.

Accordingly, we find it appropriate to order Carib to show cause in writing within 21 days of the date of this Order why it should not be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, or have its certificate canceled. The company's response shall contain specific allegations of fact or law. If Carib fails to respond to the show cause order, the fine shall be deemed assessed. If the fine is not paid within ten business days after the order becomes final, Certificate No. 3569 shall be canceled. If the fine is paid, we will then forward the contribution to the Office of the Comptroller for deposit in the State General Revenue Fund, pursuant to Section 364.285(1), Florida Statutes.

Additionally, within ten business days of the issuance date of this Order, Carib shall provide a written response addressing the questions in our August 2, 1999 letter. If Carib fails to provide the requested information as ordered, further show cause proceedings shall be initiated.

C. PROPOSED AGENCY ACTION

As stated previously, Carib has failed to pay certain regulatory assessment fees and associated penalties and interests for 1994, 1995, and 1997 in apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalty and interest charges for any delinquent amounts, pursuant to Section 350.113, Florida Statutes

Based upon the foregoing, and pursuant to Section 364.285, Florida Statutes, we hereby assess a \$500 fine upon Carib for failure to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. The fine shall be remitted to this Commission within ten business days of

ORDER NO. PSC-00-0373-SC-TI  
DOCKET NO. 000034-TI  
PAGE 4

the issuance of this Order for deposit in the State General Revenue Fund, pursuant to Section 364.285 (1), Florida Statutes. If this Order is not protested and the fine and statutory penalty and interest charges are not received as set forth in this Order, Certificate No. 3569 shall be canceled administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Carib Comm, Limited Partnership shall show cause in writing within 21 days of the issuance date of this Order why it should not be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. It is further

ORDERED that any response to the Order to Show Cause filed by Carib Comm, Limited Partnership shall contain specific allegations of fact and law and shall identify the company name and this docket number. It is further

ORDERED that failure to respond to the show cause action in this Order in the manner and date set forth in the "Notice of Further Proceedings and Judicial Review" section of this Order shall constitute an admission of the violations described in the body of this Order, waiver of the right to a hearing, and will result in the automatic assessment of the respective fine or fines. It is further

ORDERED that in the event Carib Comm, Limited Partnership fails to respond to the show cause action in this Order and the fine is not paid within ten business days after the Order becomes final, Certificate No. 3569 shall be canceled. It is further

ORDERED that Carib Comm, Limited Partnership shall, within ten business days of the issuance date of this Order, provide a written response addressing our staff's August 2, 1999, letter, which is attached and incorporated herein as Attachment A. If Carib fails to provide the requested information as ordered, further show cause proceedings shall be initiated. It is further

ORDERED that a \$500 fine is assessed against Carib Comm, Limited Partnership for failure to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies. Carib Comm, Limited Partnership shall remit the fine amount to this Commission within ten business

ORDER NO. PSC-00-0373-SC-TI  
DOCKET NO. 000034-TI  
PAGE 5

days of the issuance of this Order for deposit in the State General Revenue Fund, pursuant to Section 364.285 (1), Florida Statutes. If the assessment of this fine is not protested and the fine and statutory penalty and interest charges are not received as set forth in this Order, Certificate No. 3569 shall be canceled administratively.

ORDERED that the provisions of this Order, assessing a fine against Carib Comm, Limited Partnership, are issued as proposed agency action, and shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this Docket shall remain open to address any response to the show cause portions of this Order and any timely protest that may be filed in response to the proposed agency action portions of this Order. It is further

ORDERED that if no response to the show cause portions of this Order is filed, and the proposed agency action portions of this Order become final and effective, this Docket shall be closed administratively, upon payment of the fines.

By ORDER of the Florida Public Service Commission this 22nd day of February, 2000.

/s/ Blanca S. Bayó  
BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

( S E A L )

SOME (OR ALL) ATTACHMENT PAGES ARE NOT ON ELECTRONIC DOCUMENT.

DMC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein, assessing a fine against Carib Comm, Limited Partnership, is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 14, 2000.

In the absence of such a petition, this Order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any person whose substantial interests are affected by the show cause portions of this order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 14, 2000.

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 and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.



ORDER NO. PSC-00-0373-SC-TI  
DOCKET NO. 000034-TI  
PAGE 7

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 wastewater 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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Carib Comm, Limited Partnership for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries; and fine assessment for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 000034-TI  
ORDER NO. PSC-00-0570-CO-TI  
ISSUED: March 20, 2000

CONSUMMATING ORDER

BY THE COMMISSION:

By Order No. PSC-00-0373-SC-TI, issued February 22, 2000, this Commission proposed to take certain action, subject to a Petition for Formal Proceeding as provided in Rule 25-22.029, Florida Administrative Code. No response has been filed to the order. It is, therefore,

ORDERED by the Florida Public Service Commission that Order No. PSC-00-0373-SC-TI has become effective and final. It is further

ORDERED that this Docket shall remain open pending conclusion of the show cause portions of the Order.

By ORDER of the Florida Public Service Commission, this 20th day of March, 2000.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

By: /s/ Kay Flynn  
Kay Flynn, Chief  
Bureau of Records

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

( S E A L )

DMC

ORDER NO. PSC-00-0570-CO-TI  
DOCKET NO. 000034-TI  
PAGE 2

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any judicial review of Commission orders that is available pursuant to Section 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 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 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 and/or wastewater 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.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Carib Comm, Limited Partnership for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries; and fine assessment for violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

DOCKET NO. 000034-TI  
ORDER NO. PSC-00-0373A-SC-TI  
ISSUED: June 29, 2000

ORDER AMENDING ORDER NO. PSC-00-0373-SC-TI

On February 22, 2000, Order No. PSC-00-0373-SC-TI was issued, ordering Carib Comm, Limited Partnership (Carib or company) to show cause within 21 days of the issuance date of the Order why it should not be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Order No. PSC-00-0373-SC-TI also required Carib to provide, within ten days of the issuance date of the Order, a written response to our staff's August 2, 1999, letter. Additionally, the Order assessed, as proposed agency action, a \$500 fine against Carib for failure to comply with Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees; Telecommunications Companies.

No timely response to the show cause portions of the Order was received, resulting in the automatic assessment of the \$10,000 fine. Additionally, there was no timely protest of the proposed agency action portion of the Order assessing the \$500 fine, and on March 20, 2000, Consummating Order No. PSC-00-0570-CO-TI was issued, making the fine amount final and effective. To date, Carib has not paid any of the ordered fines. By letter dated March 8, 2000, however, it provided a response to staff's August 2, 1999, letter, and on March 30, 2000, it filed an untimely response to the Order.

The Order provides for the cancellation of the company's certificate if the \$10,000 fine is not paid within ten business days after the Order becomes final. Due to a scrivener's error, the Order also provides for the cancellation of the company's certificate if the \$500 fine is not paid within ten business days of the issuance of the Order and the proposed agency action is not

ORDER NO. PSC-00-0373A-SC-TI  
DOCKET NO. 000034-TI  
PAGE 2

timely protested. At our February 1, 2000, Agenda Conference, however, we did not vote to cancel the company's certificate in the event the company failed to pay in accordance with the Order, but instead voted to forward the \$500 fine plus statutory penalty and interest charges to the Comptroller's Office for collection. Accordingly, Order No. PSC-00-0373-SC-TI is hereby amended to correct this error.

Also due to a scrivener's error, the Order conditions the closing of the docket upon payment of the fines if no response to the show cause portions of the Order is filed and the proposed agency action portions of the Order become final and effective. However, we voted to allow the administrative closing of the docket not upon payment of the fines, but upon issuance of a consummating order and if no response is received to the show cause portions of the Order. Accordingly, Order No. PSC-00-0373-SC-TI is hereby amended in this regard, and this docket shall be closed.

Order No. PSC-00-0373-SC-TI is reaffirmed in all other respects.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order No. PSC-00-0373-SC-TI is hereby amended as set forth in the body of this Order. It is further

ORDERED that Order No. PSC-00-0373-SC-TI is reaffirmed in all other respects. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 29th day of June, 2000.

/s/ Blanca S. Bayó  
BLANCA S. BAYÓ, Director  
Division of Records and Reporting

This is a facsimile copy. A signed copy of the order may be obtained by calling 1-850-413-6770.

( S E A L )  
DMC

**STATE OF FLORIDA  
OFFICE OF THE COMPTROLLER  
BUREAU OF AUDITING  
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL**

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION

DATE: 6/30/00

CONTACT: EVELYN H. SEWELL, CHIEF, BUREAU OF FISCAL SERVICES

PHONE NUMBER: 413-6263

SAMAS ACCOUNT CODE:

61 74 1 000331 610000 00 001200

000034-TI

CaribComm, Limited Partnership

AGENCY REFERENCE #

LAST NAME

FIRST

MIDDLE

SOCIAL SECURITY NUMBER

COMPTROLLER USE ONLY

12972 S.W. 133rd Court, Miami, Florida 33186-5806

LAST KNOWN ADDRESS (INCLUDE ZIP)

HOME TELEPHONE

(305) 238-3405

WORK TELEPHONE

\$500.00

PRINCIPLE AMOUNT

Statutory Penalty & interest

PENALTY/INTEREST AMOUNT

TOTAL

Section 25-24.0161, F.A.C.

PENALTY/INTEREST AUTHORITY

2/22/00

DATE DEBT INCURRED

DEBT TYPE

Rule violation fine

DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE

ADDITIONAL INFORMATION, e.g., DATE OF BIRTH, DRIVER LICENSE NUMBER, ETC.