

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 900431-TC
proceedings against LUIS)	ORDER NO. 23918
LOPEZ-DECASTILLA for violation of)	ISSUED: 12-21-90
Commission Rule 25-24.520, 1989)	
Annual Report Requirement, and Rule)	
25-4.043, Response Requirement.)	
)	

The following Commissioners participated in the disposition of this matter:

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

ORDER RESOLVING SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Rule 25-2.420, Florida Administrative Code, requires certificated Pay Telephone Service (PATS) providers to file an annual report with this Commission's Division of Communications by January 31 of the following year. On February 6, 1990, notices requiring compliance within 20 days were sent to all PATS providers that had failed to comply with the 1989 annual report requirement by the January 31, 1990 deadline. On May 8, 1990, a docket was opened to require Luis Lopez-Decastilla (Mr. Lopez-Decastilla) to show cause why he should not be fined \$100 for failure to file the required annual report for 1989 in a prompt and timely manner and promptly respond to staff communications as required by Rule 25-4.043. On May 31, 1990, Mr. Lopez-Decastilla filed an annual report, 4 months after the deadline for filing such reports. On July 19, 1990, we issued Order No. 23222 initiating show cause proceedings against Mr. Lopez-Decastilla. Subsequently, on August 10, 1990, Mr. Lopez-Decastilla filed a written response to Order No. 23222.

We adopt the position that a late filed annual report is inadequate as compliance with Rule 25-24.520, Florida Administrative Code. Timely filing is an essential element of the annual report requirement. Furthermore, the late filed annual report was so late as to fail as an adequate response to staff's communication of February 6, 1990.

Mr. Lopez-Decastilla's response fails to make specific legal or factual arguments required by Rule 25-22.036(7)(a), Florida Administrative Code. Mr. Lopez-Decastilla makes no legal arguments and the factual assertions contained in its response fail to rise to the standards required to make out a reasonable defense to this

DOCUMENT NUMBER-DATE

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PSC-RECORDS/REPORTING

ORDER NO. 23918
DOCKET NO. 900489-TC
PAGE 2

action. Based upon it's inadequacies Mr. Lopez-Decastilla's response is a non-response and constitutes a default.

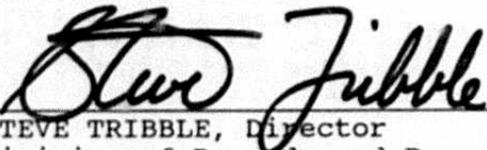
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Luis Lopez-Decastilla be fined \$100 for failure to file in a timely manner the annual report required by Rule 25-24.520, Florida Administrative Code, or in the alternative to voluntarily cancel Certificate of Public Convenience and Necessity No. 2301 and face no imposition of a fine in this matter. It is further

ORDERED that if Luis Lopez-Decastilla fails to pay the above-mentioned fine within 30 days of the issuance of this Order, Certificate No. 2301 shall be automatically canceled by the terms of this Order. It is further

ORDERED that this docket remain open pending payment of the fine or cancellation of the certification.

By ORDER of the Florida Public Service Commission this 21st
day of DECEMBER, 1990.



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

ORDER NO. 23918
DOCKET NO. 900489-TC
PAGE 3

should not be construed to mean all requests for an administrative 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.