

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause )  
proceedings for violation of Commission )  
Rule 25-24.520, F.A.C., 1990 Annual )  
Report, and Rule 25-4.043, F.A.C., )  
Response Requirement. )  
)  
)  
ELLIOT KELS ) DOCKET NO. 910433-TC  
AMERICAN INMATE COMMUNICATIONS, INC. ) DOCKET NO. 910434-TC  
COMMERCIAL TELEPHONE'S INC. ) DOCKET NO. 910436-TC  
JONI'S COURTTREE COUNTRY STORE ) DOCKET NO. 910438-TC  
DAMMAM INTERNATIONAL CORPORATION ) DOCKET NO. 910454-TC  
)  
)  
) ORDER NO. 24983  
) ISSUED: 8/28/91  
)  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

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

FINAL ORDER RESOLVING SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Rule 25-24.520, Florida Administrative Code, requires certificated PATS providers to file an annual report by January 31st of the following year. Orders requiring each of the PATS providers cited below to show cause why they should not be fined \$250 or, in the alternative, face cancellation of their certificates were issued in May, 1991. The companies being considered here filed annual reports after the deadline for filing their 1990 reports and after the commencement of these show cause proceedings. Apparently these late filings were in response to the respective show cause orders.

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08621 AUG 28 1991  
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| DOCKET NO. | COMPANY NAME                         | SHOW CAUSE ORDER | CERTIFICATE NO. |
|------------|--------------------------------------|------------------|-----------------|
| 910433-TC  | ELLIOT KELS                          | 24467            | 2562            |
| 910434-TC  | AMERICAN INMATE COMMUNICATIONS, INC. | 24467            | 2554            |
| 910436-TC  | COMMERCIAL TELEPHONE'S INC.          | 24524            | 2568            |
| 910438-TC  | JONI'S COURTTREE COUNTRY STORE       | 24524            | 2536            |
| 910454-TC  | DAMMAM INTERNATIONAL CORPORATION     | 24515            | 1931            |

We believe that a late filed report without anything more is inadequate both as compliance with Rule 25-24.520 and as a response to a show cause order. We have adopted the position that timely filing is an essential element of the annual report requirement. We also maintain that a late filed annual report does not contain specific arguments of either fact or law and therefore fails to rise to the standards required for an adequate response to a show cause order. Essentially, such filings fail as a response and constitute a default and a waiver of all rights to a formal hearing.

We find it appropriate to levy the fine proposed in the show cause orders or permit these PATS providers to voluntarily cancel their certificates. In the event any of the cited PATS providers fail to respond to this Order, that provider's certificates shall be canceled and the dockets administratively closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that each of the PATS providers cited above shall pay a \$250 fine within 30 days of the date of this Order for violation of Rule 25-24.520, Florida Administrative Code. It is further

ORDERED that the docket associated with any provider that elects to pay the fine shall be closed upon receipt of the fine. It is further

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ORDERED that if any PATS provider elects to cancel its respective certificate, the fine for that PATS provider shall be waived. It is further

ORDERED that any PATS provider electing to cancel its certificate shall still be liable for 1991 Regulatory Assessment Fees. It is further

ORDERED that if any PATS provider fails to either pay the aforementioned fine or request cancellation within 30 days of the date of this Order, that provider's certificate shall be canceled and the docket closed.

By ORDER of the Florida Public Service Commission, this 28th day of AUGUST, 1991.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

JKA

by: Kay Ferguson  
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.

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

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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.

M E M O R A N D U M

August 23, 1991

TO : DIVISION OF RECORDS AND REPORTING  
FROM : DIVISION OF LEGAL SERVICES (ADAMS) *AKO* *TK*  
RE : DOCKETS NOS. 910433-TC, 910434-TC, 910436-TC, 910438-TC,  
910454-TC

*27983*

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Attached is a FINAL ORDER RESOLVING SHOW CAUSE PROCEEDINGS in  
the above-referenced dockets, which is ready to be issued.

JKA/ttl  
Attachment  
cc: Division of Communications

910433a.ttl

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