

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910172-TC
proceedings against ALBERT KENRICH)	ORDER NO. 25138
for violation of Rule 25-24.520,)	ISSUED: 9/27/91
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

FINAL ORDER RESOLVING
SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Albert Kenrich (Mr. Kenrich) has been a certificated pay telephone service (PATS) provider since March 24, 1984. As a certificated PATS provider, Mr. Kenrich is subject to our jurisdiction.

On May 2, 1991, we issued Order No. 24468 requiring Mr. Kenrich 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. 24468 also provided that if Mr. Kenrich elected to cancel his PATS certificate, no fine would be imposed. Finally, Order No. 24468 provided that if Mr. Kenrich failed to file a timely response, his certificate would be canceled and this docket closed.

On May 17, 1991, Mr. Kenrich filed a response to Order No. 24468. In essence, Mr. Kenrich's response consists of an assertion that the report was mailed in a timely fashion and a copy of the report.

It is important to note that Mr. Kenrich failed to raise any legal or factual argument sufficient to overcome the presumption of his failure to comply with Rule 25-24.520, Florida Administrative Code. Because of the inadequacies of his arguments, essentially his response is a default.

In Docket No. 910334-TC, we declined to impose a \$250 fine because Pro Telecom, Inc. provided a copy of an annual report and

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asserted that the original had been filed in a timely manner. In the instant case, Mr. Kenrich has produced a similar level of evidence. In order to be consistent with fine amounts, we find it proper to impose a \$100 fine similar to that imposed in Docket No. 910334-TC.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Albert Kenrich shall, within 30 days, pay the \$100 fine described above, or in the alternative, voluntarily cancel his Certificate of Public Convenience and Necessity No. 2257. It is further

ORDERED that if Albert Kenrich elects to voluntarily cancel his certificate, the \$100 fine shall not be imposed, but he shall still be liable for the 1991 Regulatory Assessment Fee. It is further

ORDERED that if Albert Kenrich fails to respond to this Order, his Certificate of Public Convenience and Necessity No. 2257 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 27th day of SEPTEMBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: Kay Flynn
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

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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 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.