

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910184-TC
proceedings against ATLANTIC BUSINESS)	ORDER NO.
COMMUNICATIONS, INC. for violation of)	ISSUED: 25194
Rule 25-24.520, Annual Report)	10/10/91
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:

Atlantic Business Communications, Inc. (Atlantic or the Company) has been a certificated pay telephone service (PATS) provider since June 14, 1989. As a certificated PATS provider, it is subject to our jurisdiction.

On May 2, 1991, we issued Order No. 24469 requiring Atlantic 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. 24469 also provided that if Atlantic elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24469 provided that if Atlantic failed to file a timely response, its certificate would be canceled and this docket closed.

On May 22, 1991, Atlantic filed a response to Show Cause Order No. 24469. Atlantic's response included a late-filed Annual Report. Atlantic styled itself an independent telephone interconnect company. In its response, Atlantic asserted that it was not currently selling or servicing pay telephone equipment at this time but wished to retain its certificate. We assume that by asserting that it was not servicing pay telephone equipment, the company was stating that it was not currently providing PATS service.

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Atlantic did not provide any specific explanation for its failure to file an Annual Report in a timely manner. Atlantic's response contains no legal or factual arguments sufficient to overcome the findings made in Order No. 24469. The Annual Report requirement is predicated on possession of the certificate, not on provision of the service. Furthermore, we have frequently held that a late-filed report is not sufficient to cure a failure to file an Annual Report. Atlantic's response is essentially a default and a waiver of any right to a hearing.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Atlantic Business Communications, Inc. shall, within 30 days, pay the \$250 fine proposed in Order No. 24469 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 2318. It is further

ORDERED that if Atlantic Business Communications, Inc. elects to voluntarily cancel its certificate, the \$250 fine shall not be imposed, but the Company shall still be liable for the 1991 Regulatory Assessment Fee. It is further

ORDERED that if Atlantic Business Communications, Inc. fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 2318 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 10th
day of OCTOBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: Kay Flynn
Chief, Bureau of Records

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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 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.