

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 940163-TC
proceedings against ALLAN J.) ORDER NO. PSC-94-0354-FOF-TC
CLAYTON for failure to comply) ISSUED: March 28, 1994
with Rule 25-4.043, F.A.C.,)
Response to Commission Staff)
Inquiries; and Rule 25-4.0161,)
F.A.C., Regulatory Assessments)
Fees.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

This Commission granted Allan J. Clayton certificate number 3280 to provide pay telephone service on March 12, 1993.

A service evaluation of one of Mr. Clayton's pay telephones by Commission staff found numerous violations of the pay telephone service standards found in Rule 25-24.515, Florida Administrative Code, Pay Telephone Service. Commission staff notified Mr. Clayton of the specific violations by regular mail on October 27, 1993 and by certified mail on December 28, 1993. Pursuant to Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, a pay telephone service provider has fifteen (15) days to respond to inquiries from the Commission's staff. Although the Commission's letters indicated that a response was necessary and the certified mail certificate was returned to staff, Mr. Clayton did not respond to the substance of the letter.

Commission staff mailed a regulatory assessment fee form to Mr. Clayton on June 13, 1993 for the period January 1 through June 30, 1993. Mr. Clayton did not respond. On December 14, 1993, staff mailed a regulatory assessment fee form for the period July 1 through December 31, 1993, and, again, Mr. Clayton did not respond. Rule 25-4.0161, Florida Administrative Code, Regulatory

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FPSC-RECORDS/REPORTING

Assessment Fees; Telecommunications Companies, requires each company to pay a regulatory assessment fee based upon its gross operating revenue. Mr. Clayton has neither paid the fee nor asked this Commission for an extension.

Mr. Clayton is in apparent violation of Rules 25-24.515 and 25-4.0161, Florida Administrative Code. Therefore, we find it appropriate to require Mr. Clayton to show cause, in writing, why he should not be fined \$1,000, pay delinquent regulatory assessment fees, and correct all pay telephone service violations. Mr. Clayton's response must contain specific allegations of facts and law. If Mr. Clayton fails to respond in a timely manner, such failure shall constitute an admission of the alleged violations, a waiver of any right to a hearing, and shall result in the automatic cancellation of Certificate 3280.

It is, therefore,

ORDERED by the Florida Public Service Commission that Allan J. Clayton shall show cause, in writing, why he should not be fined \$1,000, pay delinquent regulatory assessment fees, and correct all pay telephone service violations or have Certificate No. 3280 revoked for his apparent violations of Rules 25-4.043 and 25-4.0161, Florida Administrative Code. It is further

ORDERED that Allan J. Clayton's response must contain specific allegations of fact and law. It is further

ORDERED that, should Allan J. Clayton fail to file an appropriate written response by the date set forth in the Notice of Further Proceedings or Judicial Review, such failure shall constitute an admission of the alleged violations, and a waiver of any right to a hearing. It is further

ORDERED that, unless Allan J. Clayton files a written response in the form and by the date set forth in the Notice of Further Proceedings or Judicial Review, Certificate No. 3280 shall be administratively cancelled, and this docket shall be closed on the following date. It is further

ORDERED that, should Allan J. Clayton elect to pay the fine, correct all service violations, and pay any delinquent regulatory assessment fees, this docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 28th
day of March, 1994.



STEVE TRIBBLE, Acting Director
Division of Records and Reporting

(S E A L)

LMB.

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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on April 18, 1994.

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 pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

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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.