

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Triplex Telephone Communications, Inc. for apparent violation of Rule 25-24.515, F.A.C., Pay Telephone Service, Rule 25-4.0161, F.A.C., Regulatory Assessment Fees, Telecommunications Companies, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

DOCKET NO. 990360-TC
ORDER NO. PSC-99-0894-SC-TC
ISSUED: May 4, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Triplex Telephone Communications, Inc. (Triplex), is a provider of pay telephone service, certificate number 5940. Triplex received its certificate on November 3, 1998. This Commission is unable to determine the operating revenues of Triplex or the number of pay telephones operated by Triplex in the state of Florida. As a provider of pay telephone service in Florida, Triplex is subject to the rules and regulations of the Commission.

During routine service evaluations performed by Public Service Commission staff between December 8, 1998 and December 10, 1998, 8 apparent violations of the Commission Pay Telephone Rules were observed. On December 10, 1998 and December 14, 1998, letters were mailed to Triplex by Commission staff, requesting a response within

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15 days. No response was received, and on January 5, 1999, staff mailed certified letters to Triplex, requesting a response. To date, there has been no response from Triplex.

Apparent Violations

Rule 25-24.515, Florida Administrative Code, sets forth the requirements for pay telephone service in Florida. The portions of this rule which were apparently violated by Triplex and specific instances of violations are as follows:

(8) Each pay telephone station shall complete calls to the responsible party for repairs or refunds by direct free access.

During the evaluations there was 1 incident where this was not possible.

(9) Except as provided in paragraph 9(c), each pay telephone station shall be equipped with a legible sign, card, or plate of reasonable permanence which shall identify the following:

(a) The telephone number and location address of the pay telephone station, name and certificate number of the certificate holder, the party responsible for repairs and refunds, address of responsible party, free phone number of responsible party, clear dialing instructions (including notice of the lack of availability of local or toll services), and the local coin rate.

There were 2 cases where such signage was not present.

(15)(a) Each pay telephone service company shall permit outgoing calls to be placed from its pay telephone stations at all times.

Staff found 3 stations where this was not possible.

(16)(a) Where there is a single pay telephone station, a directory shall be maintained at each station. Where there are two or more pay telephone stations located in a group, a directory for the entire local calling area shall be maintained at every other station. However, where telephone pay stations are fully enclosed, a directory shall be maintained at each pay telephone station. For purposes of this rule, the term "directory" shall mean both a current white page directory for the local calling area and a reasonably current yellow page directory that is appropriate in the calling area of the pay telephone station. Companies must comply with this subsection by June 30, 1999, or six months after the effective date of this rule, whichever is longer.

Staff found 2 Triplex locations where there were no directories. However, the Commission notes that sanctions may not be imposed for violation of this subsection until after June 30, 1999

Conclusion

Pursuant to section 364.285, Florida Statutes, we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$25,000 for each day a violation continues, if such entity is found to have refused to comply with, or to have willfully violated any lawful rule or order of the commission, or any provision of Chapter 364, Florida Statutes. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally," Barlow v. United States, 32 U.S. 404, 411 (1833). Accordingly, we hereby order Triplex Telephone Communications, Inc. to show cause in writing within twenty-one (21) days of the effective date of this Order why it should not be fined \$800 for apparent violation of Rule 25-24.515, Florida Administrative Code, \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, and \$10,000 for failure to comply with Rule 25-4.043, Florida Administrative Code, or why certificate number 5940 should not be canceled if the fines are not submitted within five business days after the Order becomes final.

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Triplex shall have 21 days from the issuance of this Order to respond in writing why it should not be fined in the amount proposed or have its certificate canceled. If Triplex timely responds to the show cause order, this docket shall remain open, pending resolution of the show cause proceeding. If Triplex does not respond to this Order to Show Cause, the fines shall be assessed. If Triplex fails to respond to the Order to Show Cause, and the fines are not received within five business days after the expiration of the show cause response period, the certificate of Triplex Telephone Communications, Inc. shall be canceled and this docket closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Triplex Telephone Communications, Inc. shall show cause in writing within 21 days of the effective date of this order why it should not be fined \$800 for apparent violation of Rule 25-24.515, Florida Administrative Code, \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, and \$10,000 for failure to comply with Rule 25-4.043, Florida Administrative Code, or have its certificate canceled if the fines are not submitted within five business days after the order becomes final. It is further

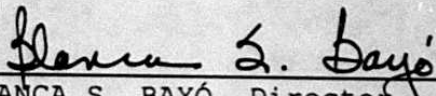
ORDERED that any response to the Order to Show Cause filed by Triplex Telephone Communications, Inc. shall contain specific allegations of fact and law. It is further

ORDERED that failure to respond to this Order to Show Cause in the manner and by the date set forth in the "Notice of Further Proceedings or Judicial Review," attached hereto, shall constitute an admission of the violations described in the body of this order, as well as a waiver of right to a hearing, and will result in the automatic assessment of the appropriate fine and cancellation of certificate. It is further

ORDERED that in the event Triplex Telephone Communications, Inc. fails to respond to this order and the fines are not received within five business days after the expiration to the show cause response period, certificate number 5940, issued to Triplex Telephone Communications, Inc., shall be canceled and this docket closed administratively.

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By ORDER of the Florida Public Service Commission this 4th
day of May, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

CLF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 25, 1999.

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 and a default pursuant to Rule 28-106.111(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.