

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Hillsborough Communications Corporation 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, Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries, and Rule 25-24.520, F.A.C., Reporting Requirements.

DOCKET NO. 990361-TC  
ORDER NO. PSC-99-0933-SC-TC  
ISSUED: May 11, 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:

Hillsborough Communications Corporation (Hillsborough), certificate number 3345, is a provider of pay telephone service and was certificated on June 4, 1993. Hillsborough filed its 1997 regulatory assessment fee return but did not report its gross operating revenues or intrastate revenues. However, Hillsborough did report that it owns and operates 49 pay telephones in the State of Florida. As a provider of pay telephone service in Florida, Hillsborough is subject to the rules and regulations of this Commission.

DOCUMENT NUMBER-DATE

05968 MAY 11 1999

FPSC-RECORDS/REPORTING

APPARENT VIOLATIONS

Our staff performed routine service evaluations on November 23, 1998, and February 17, 1999, and found apparent violations of the following Commission Pay Telephone Service rules: direct coin free access to the responsible party for repairs and refunds set forth in 25-24.515 (8), Florida Administrative Code; legible and correct address and phone number of the pay station, and clear and accurate dialing instructions as set forth in 25-24.515 (9) (a), Florida Administrative Code; ability to originate call as set forth in Rule 25-24.515(15) (a), Florida Administrative Code; and current directory requirements as set forth in 25-24.515 (16) (a), Florida Administrative Code.

The following chart shows the total number of violations for each rule, found during these routine pay station evaluations.

<b>RULE</b>	<b>NUMBER OF VIOLATIONS</b>
Rule 25-24.515(8), Florida Administrative Code; Access to repairs/refund number	3
Rule 25-24.515(9) (a), Florida Administrative Code; Required telephone numbers, addresses, clear dialing instructions, and coin rate	8
25-24.515(15) (a), Florida Administrative Code; Allows outgoing calls	1
Rule 25-24.515(16) (a), Florida Administrative Code; Current telephone directory available	3
<b>TOTAL VIOLATIONS</b>	<b>15</b>

Additionally, Rule 25-4.0161, Florida Administrative Code, requires the payment of regulatory assessment fees by January 30 of the subsequent year for telecommunications companies, and provides for penalties and interest as outlined in Section 350.113, Florida

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Statutes, for any delinquent amounts. Hillsborough has not submitted the regulatory assessment fee for the year 1998, along with statutory penalties and interest charges, in apparent violation of this rule.

Furthermore, Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, states:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

Our staff sent a certified letter to Hillsborough on January 5, 1999, and requested a response within 15 days. The letter was returned by the United States Postal Service stamped "Unclaimed". To date, we have not received a response. Hillsborough is in apparent violation of Rule 25-4.043, Florida Administrative Code.

#### 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 offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of this Commission, or any provision of Chapter 364. 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).

Hillsborough's conduct in providing pay telephone services in apparent violation of Commission Rule 25-24.515, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, we

nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as Hillsborough's conduct in issue here, would meet the standard for a "willful violation."

Accordingly, we find it appropriate to order Hillsborough to show cause in writing within twenty-one (21) days of the effective date of this Order why it should not be fined \$1,500 for apparent violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, and \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, or why certificate number 3345 should not be canceled if the fines are not submitted within five business days after the Order becomes final.

If Hillsborough timely responds to the show cause order, this docket shall remain open pending resolution of these issues. If Hillsborough does not respond to the Commission's Order to Show Cause, the fines shall be assessed. If Hillsborough 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, Hillsborough's certificate shall be canceled and this docket closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Hillsborough Communications Corporation shall show cause in writing within 21 days of the effective date of the order why it should not be fined \$1,500 for apparent violations of Rule 25-24.515, Florida Administrative Code, Pay Telephone Service, \$500 for apparent violation of Rule 25-4.0161, Florida Administrative Code, Regulatory Assessment Fees, Telecommunications Companies, and \$10,000 for failure to comply with Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, or have its certificate canceled if the fines are not submitted within five business days after the Order becomes final. It is further

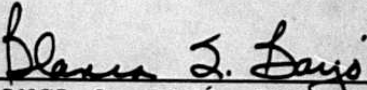
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ORDERED that any response to the Order to Show Cause filed by Hillsborough Communications Corporation shall contain specific allegations of fact and law. It is further

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, waiver of right to a hearing, and will result in the automatic assessment of the appropriate fine and cancellation of certificate. If the fine is not paid after reasonable collection efforts by the Commission, it shall be forwarded to the Office of the Comptroller for collection. If the fine is paid it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. It is further

ORDERED that in the event Hillsborough Communications Corporation fails to respond to this Order and the fines are not received within five business days after the expiration of the show cause response period, Hillsborough Communications Corporation's certificate shall be canceled and this docket closed administratively.

By ORDER of the Florida Public Service Commission this 11th day of May, 1999.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

JAM

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 June 1, 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.

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.