

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause ) DOCKET NO. 910211-TC  
proceedings against COMMUNITY QUICK ) ORDER NO. 25098  
STOP for violation of Rule ) ISSUED: 9/24/91  
25-24.520, Annual Report Requirement. )  
\_\_\_\_\_ )

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:

Community Quick Stop (Community or the Company) has been a certificated pay telephone service (PATS) provider since September 12, 1989. As a certificated PATS provider, Community is subject to our jurisdiction.

On May 8, 1991, we issued Order No. 24503 requiring Community 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. 24503 also provided that if Community elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24503 provided that if Community failed to file a timely response, its certificate would be canceled and this docket closed.

On May 17, 1991, Community filed a response to Order No. 24503. In its response, Community indicated that it was unaware of the Annual Report Requirement. Community also expressed a willingness to file an Annual Report and requested that a form be sent to it. An additional form was forwarded to the Company, and a late-filed Annual Report was subsequently received on July 24, 1991.

Community's response is two-pronged. The Company seems to be arguing that its alleged lack of actual knowledge, combined with the subsequent late filing, is sufficient to mitigate its failure to timely comply with Rule 25-24.520. We find this reasoning to be

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specious and without merit. PATS providers are placed on notice of our rules in the course of completing the application process. Furthermore, we have often ruled that timeliness is an essential element of the Annual Report Requirement, and a subsequent late filing is not an adequate remedy.

Community has failed to make any legal or factual argument sufficient to set aside the proposed fine. Essentially, Community's response is a default and a waiver of the right to a hearing.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Community Quick Stop shall, within 30 days, pay the \$250 fine proposed in Order No. 24503 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 2359. It is further

ORDERED that if Community Quick Stop 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 Community Quick Stop fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 2359 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 24th day of SEPTEMBER, 1991.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

JKA

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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.

MEMORANDUM

September 18, 1991

TO : DIVISION OF RECORDS AND REPORTING  
FROM : DIVISION OF LEGAL SERVICES (ADAMS)  
RE : DOCKET NO. 910211-TC

*Handwritten initials: JKA and another set of initials.*

*Handwritten number: 25098*

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Attached is a FINAL ORDER RESOLVING SHOW CAUSE PROCEEDINGS in the above-referenced docket, which is ready to be issued.

JKA/ttl  
Attachment  
cc: Division of Communications

910211a.ttl

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