

FLORIDA PUBLIC SERVICE COMMISSION

Re In: Initiation of show cause) DOCKET NO. 910345-TC
proceedings against SNAPPER) ORDER NO. PSC-92-0352-FOF-TC
CREEK UNION 76 for violation of) ISSUED: 05/13/92
Commission Rule 25-24.520, 1990)
Annual Report, and Rule 25-)
4.043, Response Requirement.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

FINAL ORDER

BY THE COMMISSION:

Snapper Creek Union 76 (Snapper Creek) has been a certificated pay telephone service (PATS) provider since August 29, 1986. As a certificated PATS provider, Snapper Creek is subject to our jurisdiction.

Rule 25-24.520, Florida Administrative Code, (the Rule) requires all certificated PATS providers to file an Annual Report by January 31 of the following year. When no 1990 Annual Report was filed by January 31, 1991, this docket was opened. On May 13, 1991, Order No. 24517 was issued requiring Snapper Creek to show cause why it should not be fined \$250 for failure to file the annual report in a timely matter, as required by the Rule. On February 28, 1991, a completed Annual Report was filed by Snapper Creek with no explanation or comment. This report was taken to be a response to Order No. 24517. However, Order No. 24517 was returned as undeliverable because of a scrivener's error in addressing the notice of the Order. Snapper Creek did not receive notice of Order No. 24517, and accordingly, the late-filed Annual Report could not have been a response to that Order.

On January 29, 1992 we issued Order No. 25649 requiring Snapper Creek to show cause why it should not be fined \$250 for failure to file its 1990 Annual Report in a timely fashion as required by the Rule. On February 18, 1992 Snapper Creek responded to Order No. 25649 with a telephone facsimile of its response. The Commission does not accept filings by facsimile; our rules specifically require the filing of original documents. After receipt of the facsimile, our staff informed Snapper Creek of the filing requirements. On March 23, 1992, Snapper Creek filed the original response.

DOCUMENT NUMBER-DATE

04820 MAY 13 1992

FPSC-RECORDS/REPORTS

Initially we note that Snapper Creek failed to file a proper response in a timely manner. Snapper Creek was notified of the procedural deficiencies in order to permit the company to file a proper response and to allow us to consider the merits of the response. Notwithstanding Snapper Creek's untimely filing, the Company fails to set forth an argument of either law or fact sufficient to constitute a defense to the allegations set forth in Order No. 25649. Essentially Snapper Creek admits to the late filing and merely asserts that other agencies do not impose fines for late filings but merely impose penalties. We do not believe we are bound by the enforcement policies of other agencies.

Accordingly, we reject Snapper Creek's arguments and impose the penalties proposed in Order No. 25649. In order to avoid the payment of the fine in the amount of \$250, Snapper Creek may voluntarily cancel its certificate.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the fine proposed in Order 25649 shall be imposed against Snapper Creek Union 76 as set forth in the body of this Order. It is further

ORDERED that if Snapper Creek Union 76 fails to respond to this Order or elects to voluntarily cease to provide pay telephone service, Certificate 1134 shall be cancelled and no fine imposed. It is further

ORDERED that this docket shall remain open 30 days to permit Snapper Creek to pay the fine or request cancellation of its certificate and then this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 13th day of May, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Dwyer
Chief, Bureau of Records

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.