

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920409-TC
cause proceedings against) ORDER NO. PSC-92-1275-FOF-TC
AMERICAN PAY TELEPHONE) ISSUED: 11/09/92
CORPORATION D/B/A AMERICAN)
INMATE PHONE SYSTEMS for)
violation of Rule)
25-4.0161(2), F.A.C.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

FINAL ORDER

BY THE COMMISSION:

On August 24, 1992, we issued Order No. PSC-92-0893-FOF-TC (Order No. 0893) requiring American Pay Telephone Corporation d/b/a American Inmate Phone Systems (APTC) to show cause why it should not be fined \$250.00 for failure to file its regulatory assessment fee/annual report form pursuant to Rule 25-4.0161(2), Florida Administrative Code. On September 8, 1992, APTC filed a response to Order No. 0893.

Essentially, APTC's response appears to be an admission of the facts alleged, a default, and a waiver of the right to a formal hearing.

APTC asserts that it had not received a Regulatory Assessment Fee (RAF) return for the period July 1, 1991 through December 30, 1991. APTC also asserts that it should not be fined because it no longer conducts business in Florida.

We have frequently ruled in the past that timely filing of the Annual Report/RAF Return is an affirmative duty and is not contingent upon receipt of a blank form. Accordingly, APTC's assertion that it should not be fined fails.

APTC also argues that it should not be fined because it has discontinued operations in Florida. The requirement to file the Annual Report/RAF Return Form is not contingent upon doing business in the state. Rather, the obligation results from the authority to

DOCUMENT NUMBER-DATE

13148 NOV -9 1992

PSC-RECORDS/REPORTING

ORDER NO. PSC-92-1275-FOF-TC
DOCKET NO. 920409-TC
PAGE 2

provide service within the state. Consequently this assertion also fails as a defense to the allegations set forth in Order No. 0893.

We find that the penalties proposed in Order No. 0893 be imposed. If APTC elects to voluntarily cancel its certificate or fails to respond to the Final Order, no fine should be imposed, Certificate No. 2451 should be cancelled and the docket closed. If APTC elects to pay the fine, the docket should be closed. The docket should remain open 30 days from the date of the Final Order to allow APTC to comply with the Final Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the penalties proposed in Order No. PSC-92-0893-TC be imposed against American Pay Telephone Corporation d/b/a American Inmate Pay Phone Systems. It is further

ORDERED that if American Pay Telephone Corporation d/b/a American Inmate Pay Phone Systems elects to voluntarily cancel its certificate or fails to respond to this Order, no fine shall be imposed, Certificate No. 2451 shall be cancelled and this docket closed. It is further

ORDERED that if American Pay Telephone Corporation d/b/a American Inmate Pay Phone Systems elects to pay the \$250.00 fine proposed in Order No. PSC-92-0893-FOF-TC this docket shall be closed. It is further

ORDERED that this docket shall remain open thirty days from the date of this Order to allow American Pay Telephone Corporation d/b/a American Inmate Pay Phone Systems to comply with the terms of this Order.

By ORDER of the Florida Public Service Commission this 9th day of November, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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ORDER NO. PSC-92-1275-FOF-TC
DOCKET NO. 920409-TC
PAGE 3

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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.