

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Cancellation of Certificates)	DOCKET NO. 880440-TC
to Provide Pay Telephone Service:)	ORDER NO. 20722
BOCA PAY TEL RECONSIDERATION OF)	ISSUED: 2-10-89
PAA ORDER NUMBER 19264 FOR THE)	
CANCELLATION OF CERTIFICATE 542)	

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 JOHN T. HERNDON

ORDER INITIATING SHOW CAUSE PROCEEDINGS
DEMAND FOR RESPONSE WHY A FINE SHOULD
NOT BE IMPOSED FOR FAILURE TO COMPLY
WITH COMMISSION RULE

BY THE COMMISSION:

Boca Pay Tel is hereby directed to show cause why it should not be fined one hundred dollars (\$100.00) for failure to notify the Commission of the company's address change, as required by Rule 25-24.520, Florida Administrative Code.

BACKGROUND

Order No. 19264 proposed to cancel Boca Pay Tel's (Boca's) Certificate of Public Convenience and Necessity No. 542 for failure to comply with Rule 25-24.520, Florida Administrative Code. The applicable section of the rule provides:

Each pay telephone service company shall file with the Commission's Division of Communications updated information for the following items within ten (10) days after such changes occur:

- a. The address of the certificate holder (street number and name, city, state and zip code). If mailing address differs from above, provide that also

In this case, on several occasions Commission mail sent to Boca had been returned as undeliverable and an attempt by our Staff to notify Boca by phone was unsuccessful as its phone had been disconnected. Boca filed a timely protest to our action requesting that its certificate not be cancelled due to its inadvertent failure to notify the Commission of its new address. Based upon the representations of Boca we will not cancel its certificate. However, we find it appropriate to require the company to show cause why it should not be fined for violation of Rule 25-24.520.

Pursuant to Section 364.285, Florida Statutes, this Commission is authorized to levy a fine of up to \$5,000 for

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each violation of a statute, rule or order subject to the Commission's jurisdiction or to revoke a certificate of public convenience and necessity. Accordingly, we find it appropriate to require Boca to show cause in writing why it should not be fined \$100 for its failure to comply with our rules. Any response to this Order to Show Cause shall be filed in conformance with Rules 25-22.036 (7)(a) and 25.22.037(1), Florida Administrative Code. Boca's response shall contain specific statements as to fact and law. If Boca declines to respond to the Order to Show Cause payment of the fine should be mailed to:

Director of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850

Therefore, based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Boca Pay Tel's Certificate of Public Convenience and Necessity No. 542 shall not be cancelled. It is further

ORDERED that Boca Pay Tel shall show cause in writing why it should not be fined one hundred dollars (\$100) for failure to notify the Commission of its address change as required by Rule 25-24.520, Florida Administrative Code, or in the alternative, pay the fine pursuant to the terms set forth in the body of this Order. It is further

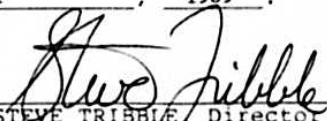
ORDERED that any response filed by Boca Pay Tel must contain specific statements as to fact and law. It is further

ORDERED that a response or the payment of the fine shall be done so within 20 days of the date of this Order. It is further

ORDERED that upon receipt of a response as outlined above, and upon a request for a hearing, further proceedings will be scheduled by the Commission, at which time Boca Pay Tel will have an opportunity to contest the violation alleged above. It is further

ORDERED that Boca Pay Tel's failure to respond in the form or pay the fine within the prescribed time will constitute admission of guilt of the alleged violation above and a waiver of the right to a hearing.

By ORDER of the Florida Public Service Commission,
this 10th day of FEBRUARY, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are adversely affected by the action proposed by this order may file a petition for a formal proceeding pursuant to Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 2, 1989. Failure to respond by March 2, 1989, shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on March 3, 1989.

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 an electric, gas or telephone utility or by 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 of the effective date of the default set forth in 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.