

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)
proceedings for failure to file 1988)
annual reports)
)
ALLTELCO OF FLORIDA, INC.) DOCKET NO. 890558-TI
EXECUTIVE SUITES OF FT. LAUDERDALE) DOCKET NO. 890611-TI
) ORDER NO. 22151
) ISSUED: 11-6-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

ORDER INITIATING SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Rule 25-24.480, Florida Administrative Code (the Rule), requires that each Interexchange Carrier (IXC) file reports with this Commission. The reports, due on January 31st of each year, require basic company information as well as construction and capacity data.

On February 24, 1989, Alltelco of Florida, Inc. (Alltelco) filed its 1988 IXC annual report with the Commission. On March 27, 1989, Executive Suites of Ft. Lauderdale (Executive) filed its 1988 IXC annual report with the Commission. Since these reports were due by January 31, 1989, Alltelco and Executive appear to be in violation of the Rule.

Order No. 21426, issued June 22, 1989, announced the initiation of a show cause proceeding against Alltelco. Upon review, Staff learned that we did not intend to initiate a show cause proceeding against this company, and on July 10, 1989, we issued Order No. 21426-A, establishing a 45-day period during which Alltelco could elect to pay a fine in lieu of our initiating a show cause proceeding. We offered to impose a \$4,000 fine on Alltelco because the company had apparently failed to file an annual report in a timely manner for the second consecutive year. Order No. 21426-A permitted Alltelco to pay \$2,000 by July 28, 1989, with the remainder of the fine

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being suspended until the 1989 report is due. Alltelco has not responded to our offer of settlement; therefore, Alltelco is required to show cause why it should not be fined \$4,000 for violation of Rule 25-24.480.

Order No. 21429, issued on June 22, 1989, established a 45-day period during which Executive could elect to pay a fine in lieu of our initiating a show cause proceeding. Our offer of settlement was to impose a \$1,000 fine on Executive for their failure to file an annual report in a timely manner. Executive has not responded to our offer of settlement; therefore, Executive is required to show cause why it should not be fined \$2,000 for violation of Rule 25-24.480.

Dockets Nos. 890558-TI and 890611-TI shall remain open pending the resolution of the show cause proceedings. If Alltelco or Executive pay the fines imposed in these dockets within 30-days of the issuance date of this Order, our Staff is authorized to close the paying company's docket administratively. In the event that Alltelco or Executive neither pays the fine imposed nor files a proper protest within the time established below, our Staff is authorized to cancel the certificate of the failing company administratively and to close the appropriate docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Alltelco of Florida, Inc., shall show cause in writing why a \$4,000 fine should not be assessed against it for its apparent failure to file timely reports required by Rule 25-24.480, Florida Administrative Code, for two consecutive years. It is further

ORDERED by the Florida Public Service Commission that Executive Suites of Ft. Lauderdale shall show cause in writing why a \$2,000 fine should not be assessed against it for its failure to file timely reports required by Rule 25-24.480, Florida Administrative Code, and for its failure to respond to Commission correspondence. It is further

ORDERED that the written responses to this show cause order by the interexchange carriers listed in the caption of this docket must be received by the Director of Records and Reporting, 101 E. Gaines Street, Tallahassee, Florida

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32399-0870, by the time established below. It is further

ORDERED that any response filed by the interexchange carriers listed in the caption of this docket must contain specific statements of law and fact. It is further

ORDERED that the failure by any of the interexchange carriers listed in the caption of this docket to file a written response within the prescribed time period will constitute an admission of noncompliance and a waiver of any right to a hearing. It is further

ORDERED that the failure by any of the interexchange carriers listed in the caption of this docket to request a hearing in any written response that is submitted will constitute a waiver of any right to a hearing.

ORDERED that the Staff of the Florida Public Service Commission is hereby delegated the authority to close Docket No. 890558-TI and Docket No. 890611-TI administratively upon the payment by Alltelco of Florida, Inc., and Executive Suites of Ft. Lauderdale of the fines imposed herein within 30 days of the issuance date of this Order. It is further

ORDERED that the Staff of the Florida Public Service Commission is hereby delegated the authority to cancel administratively the certificates held by Alltelco of Florida, Inc., and Executive Suites of Ft. Lauderdale in the event that the companies both fail to pay the fine imposed herein within 30 days of the issuance date of this Order and failed to submit a proper protest within the time established below and to close Docket No. 890558-TI and Docket No. 890611-TI administratively. It is further

By ORDER of the Florida Public Service Commission,
this 6th day of NOVEMBER, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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 November 27, 1989.

Failure to respond within the time set forth above shall constitute a 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(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(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 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 date 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.