

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 911089-TC
proceedings against HENRY T. HARDEN)	
for violation of Rules 25-4.043, F.A.C.,)	ORDER NO. 25424
Response Requirement, and 25-24.515(6),)	
F.A.C., Access to Interexchange Carriers.))	ISSUED: 12/2/91
)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL MCK. WILSON

ORDER TO SHOW CAUSE WHY A FINE
 SHOULD NOT BE IMPOSED FOR VIOLATION
 OF PAY TELEPHONE SERVICE STANDARDS

BY THE COMMISSION:

Henry T. Harden (Mr. Harden) has been a certificated pay telephone service (PATS) provider since October 4, 1986. As a certificated PATS provider, Mr. Harden is subject to our jurisdiction.

On June 18 and 19, 1991, a service evaluator inspected three pay telephones operated by Mr. Harden. The evaluator noted several deficiencies, including the blocking of access to some interexchange carriers. Rule 25-24.515, Florida Administrative Code, requires:

Each telephone station which provides access to any interexchange carrier must provide access to all locally available interexchange carriers.

A letter addressed to Mr. Harden on July 12, 1991 requested the various deficiencies be corrected and a response describing the corrective measures be filed within 15 days. Mr. Harden's failure to respond to this first communication is an apparent violation of Rule 25-4.043, Florida Administrative Code, which provides:

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The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished within fifteen (15) days of the inquiry.

When no response to the first communication was received, a second letter was sent by certified mail on August 15, 1991. The second letter again requested corrective action and a written response within 15 days. Mr. Harden filed a response to this second letter on August 30. In his response, Mr. Harden indicated that all violations had been corrected. However, when the telephones in question were subsequently evaluated on October 29 and 30, coin-free access to alternative interexchange carriers was still being denied. Denial of coin-free access is an apparent violation of terms of Order No. 24101 that prohibits pay telephone instruments from charging for access to nonprescribed interexchange carriers.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Henry T. Harden be required to show cause in writing why he should not be fined for violation of the service standards cited in the body of this Order. It is further

ORDERED that any response to this Order be filed pursuant to the requirements set forth below. It is further

ORDERED that if Henry T. Harden fails to file a timely response to this Order, Certificate No. 122 shall be canceled and this docket closed. It is further

ORDERED that this docket shall remain open pending resolution of the show cause process.

By ORDER of the Florida Public Service Commission, this 2nd
day of DECEMBER, 1991.


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 affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), 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 12/23/91.

Failure to respond within the time set forth above 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 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 this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.