

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 940164-TC
proceedings against BRIAN R.) ORDER NO. PSC-94-0723-FOF-TC
ALBURY for failure to comply) ISSUED: June 13, 1994
with Rule 25-4.043, F.A.C.,)
Response to Commission Staff)
Inquiries.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING

FINAL ORDER IMPOSING FINE

BY THE COMMISSION:

In July and September of 1993, Commission staff notified Brian R. Albury, holder of Pay Telephone Certificate No. 2909, of apparent violations of pay telephone service standards. Two letters were sent to Mr. Albury ordering him to correct the violations and notify our staff when the corrections were complete. Mr. Albury did not respond.

By Order Number PSC-94-0351-FOF-TC, issued March 28, 1994, the Commission ordered Brian R. Albury to show cause why he should not correct all violations and be fined \$500 or have Pay Telephone Certificate No. 2909 cancelled for failure to respond to Commission staff inquiries, in violation of Rules 25-4.043 and 25-24.505(1), Florida Administrative Code. This Commission ordered Mr. Albury to respond with specific allegations of fact and law but Mr. Albury's response offered no defense. He informed us that the phones had been removed but he did not pay the fine. Mr. Albury attempted to explain his earlier failures to respond to our staff by stating that he, "had not lived at the 9706 Palmetto Club Ln. address for quite some time" and did not receive our staff's letters. Rule 25-24.520, Florida Administrative Code, Reporting Requirements, requires a pay telephone provider to inform the Commission within 10 days of any change of address. By not informing this Commission of his new address, Mr. Albury apparently violated Rule 25-24.520. Violation of one Commission rule is no defense to the violation of another rule.

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By responding inadequately to our March 28, 1994 Order, Mr. Albury admitted the violations stated in that Order and waived his right to a hearing. Therefore, we find the fine imposed in our March 28, 1994 Order to Show Cause to be appropriate. Mr. Albury is ordered to pay a \$500 fine to the Florida Public Service Commission within 60 days of the issuance of this Order. If Mr. Albury pays the fine within 60 days, this docket shall be closed. If Mr. Albury does not pay the fine within 60 days, his certificate shall be cancelled and this docket shall be closed.

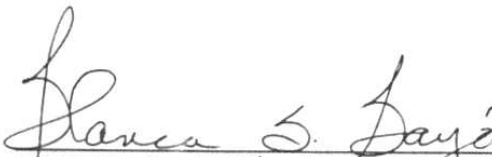
It is, therefore,

ORDERED by the Florida Public Service Commission that Brian R. Albury, holder of Pay Telephone Certificate No. 2909, pay a \$500 fine to the Florida Public Service Commission for violation of Rules 25-4.043 and 25-24.505(1), Florida Administrative Code, Response to Staff Inquiries. It is further

ORDERED that if Brian R. Albury does not pay the fine within 60 days of the issuance of this Order, Certificate No. 2909 shall be cancelled. It is further

ORDERED that this docket shall be closed when Brian R. Albury pays the \$500 fine or when Certificate No. 2909 is cancelled.

By ORDER of the Florida Public Service Commission, this 13th day of June, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

LMB

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.