

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause Proceedings Against )  
the following Companies for Violation of )  
Commission Rule 25-24.520, F.A.C., 1988 )  
Annual Report Requirements for Pay )  
Telephone Service Companies and Rule )  
25-4.043, F.A.C. Response Requirements )  
) )  
MARK W. HOFMANN ) DOCKET NO. 890961-TC  
MIAMI FOOD STORE CORPORATION ) DOCKET NO. 890962-TC  
MICHAEL VETRO ) DOCKET NO. 890963-TC  
MIRACLE INDUSTRIES, INC. ) DOCKET NO. 890964-TC  
NATIONAL PAYPHONE SERVICES CORPORATION ) DOCKET NO. 890965-TC  
NUT-DO BAKERY, INC. ) DOCKET NO. 890966-TC  
ORTEGA NO. MIAMI MOBIL SERVICE ) DOCKET NO. 890967-TC  
PANDA CAFETERIA, INC. ) DOCKET NO. 890979-TC  
PAYTEL, INC. ) DOCKET NO. 890980-TC  
PEPPER POT RESTAURANT ) DOCKET NO. 890981-TC  
) ORDER NO. 22000  
) ISSUED: 10-5-89

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

DEMAND FOR RESPONSE WHY A FINE SHOULD NOT BE IMPOSED  
OR IN THE ALTERNATIVE, WHY CERTIFICATE SHOULD NOT  
BE CANCELLED FOR FAILURE TO FILE ANNUAL REPORTS

BY THE COMMISSION:

Rule 25-24.520, Florida Administrative Code, requires the filing of annual reports with the Commission, due January 31st. Rule 25-4.043 requires that all entities under Commission jurisdiction reply to Commission inquiries. As certificated Pay Telephone Service (PATS) providers, the companies listed in the caption of this Order are subject to

DOCUMENT NUMBER-DATE

09964 OCT -5 1989

FPSC-RECORDS/REPORTING

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the jurisdiction of this Commission and have failed to file the required reports. Notices were sent on December 19, 1989, February 23, 1989, and May 8, 1989, respectively, notifying them of these requirements and requesting compliance within 20 days of each notice. As of the date of this order, the companies referenced below have not responded. The subject companies and their respective certificate numbers are as follows:

<u>Name</u>	<u>Certificate No.</u>
MARK W. HOFMANN	1091
MIAMI FOOD STORE CORPORATION	1102
MICHAEL VETRO	1927
MIRACLE INDUSTRIES, INC.	1873
NATIONAL PAYPHONE SERVICES CORPORATION	2049
NUT-DO BAKERY, INC.	2101
ORTEGA NO. MIAMI MOBIL SERVICE	1380
PANDA CAFETERIA, INC.	965
PAYTEL, INC.	947
PEPPER POT RESTAURANT	409

Pursuant to Section 364.285, Florida Statutes, this Commission is authorized to levy a fine of up to \$5,000 for 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 each PATS company listed above to show cause in writing why it should not be fined \$100, or in the alternative, have its certificate revoked for failure to file its 1988 annual report as required by Rule 25-24.520 and for failure to respond to Commission inquiries as required by Rule 25-4.043. All responses 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. Each Company's response shall contain specific statements as to fact and law.

If any PATS company fails to respond to this show cause in the form and within the time limits prescribed, the facts alleged in this Order shall be deemed true and shall constitute an admission of guilt of the violation of Rule 25-24.520 and a waiver of the right to a hearing. If no response is received from a company, we find it appropriate that no fine be imposed and that the company's certificate be cancelled.

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Any company desiring to avoid the potential of either a fine or revocation of its certificate as a result of this show cause order may request voluntary cancellation of its certificate. If a company requests cancellation of its certificate, this show cause order will be withdrawn as to that party. A request for cancellation pursuant to this Order shall be filed within the time limits set forth herein. A request for cancellation of a certificate must include (a) a statement of intent and date to pay Regulatory Assessment Fee and (b) a statement of why the certificate is proposed to be cancelled. Payment of fine or a written request to cancel a certificate should be mailed to:

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

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each company listed in the caption of this Order shall show cause in writing why it should not be fined \$100 or, in the alternative, have its certificate revoked for failure to file the reports required by Rule 25-24.520, Florida Administrative Code, or return a written request that its certificate be cancelled and the docket be administratively closed. It is further

ORDERED that any response filed by any company described in the body of this Order must contain specific statements as to fact and law. It is further

ORDERED that a response or a request for cancellation shall be filed 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 Company's request for a hearing, further proceedings will be scheduled by the Commission, at which time the Company will have an opportunity to contest the violations alleged above. It is further



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ORDERED that any Company's failure to respond in the form and within the prescribed time will constitute admission of guilt of the violations alleged above and a waiver of the right to a hearing. It is further

ORDERED that if no timely response to this Order is filed by a Company described herein, that Company's certificate will be revoked.

By ORDER of the Florida Public Service Commission,  
 this 5th day of October, 1989.

  
 STEVE TRIBBLE, Director  
 Division of Records and Reporting

( S E A L )

JSR

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),

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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 October 25, 1989. Failure to respond by October 25, 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 October 26, 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.