

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause Proceedings Against)	DOCKET NO. 891044-TC
UNITED STATES PUBLIC COMMUNICATIONS, INC.)	
for Violation of Rule 25-24.515, F.A.C.,)	
and For Misrepresenting that Corrective)	
Action was Taken with Regard to Service)	
Evaluation)	ORDER NO. 22145
_____)	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:

On August 14, 1989, FPSC Staff requested that a show cause docket be opened and, as grounds for the order to show cause, alleged the following facts.

- (1) On April 13, 1989 FPSC Staff conducted a routine evaluation of payphone number (904) 668-1003, located at the Wendy's on Thomasville Road in Tallahassee. Two discrepancies were found with the payphone, pertaining to Rule 25-24.515 (11) and (13) which require the payphone to have a current directory and be accessible to the wheelchair disabled.
- (2) On April 24, 1989, copies of the PATS station evaluation were mailed to United States Public Communications, Inc., hereinafter referred to as "USPC", at 280 Snow Drive, Suite 14, Birmingham, Alabama. A cover letter attached thereto specifically requested that, if an unsatisfactory item was marked, the company should identify in their response, within 15 working days, the corrective measures taken to bring the phone into compliance. This letter also specifically requested that any other similar violations be corrected.

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- (3) On May 11, 1989, staff received a response from Mr. Ken Weston, the regional manager of operations for USPC, regarding pay telephone number (904) 668-1003. In his letter, Mr. Weston claimed that the unsatisfactory service items regarding pay telephone number (904) 668-1003 had been corrected.
- (4) On May 18, 1989, a reevaluation of the same payphone was conducted and the same violations plus others were found. Several more of USPC's pay telephones were evaluated that day. Similar violations were found with those phones as well.

Rule 25-24.515(11), states that where there are fewer than three telephones located in a group, a directory for the entire local calling area shall be maintained at each station. Rule 25-24.515(13), states that each telephone station installed after January 5, 1987 shall conform to the American National Standard specifications for making facilities accessible and usable by those in wheelchairs. A copy of the Rules, including Rule 25-24.515 along with a copy of the American National Standards for the wheelchair disabled is provided to every applicant before they are certified.

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.

After review of the documents provided by FPSC Staff, we find that prima facia evidence of the alleged violations of Commission Rules has been shown, accordingly, we find it appropriate to require USPC to show cause why it should not be fined \$1,100 for these apparent violations.

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Under applicable Commission Rules, all responses to this Order to Show Cause must be filed in conformance with Rules 25-22.036(7)(a) and 25-22.037(1), Florida Administrative Code. Each Company's response must contain specific statements as to fact and law.

If USPC 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 violations alleged and a waiver of the right to a hearing.

Based on the foregoing, it is hereby

ORDERED that United States Public Communications, Inc., Certificate Number 1834, shall show cause why they should not be fined \$1,100 for violation of Rule 25-24.515 (13) which relates to accessibility to the wheelchair disabled and for subsequently misrepresenting compliance. It is further

ORDERED that any response filed by any company described in the body of this Order must be filed in conformance with Rules 25-22.036(7)(a) and 25-22.037(1), Florida Administrative Code and must contain specific statements as to fact and law. It is further

ORDERED that responses must be filed within 20 days of the date of this Order. It is further

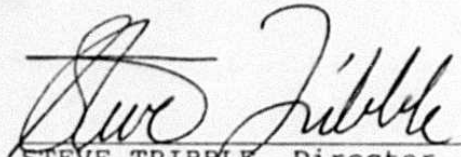
ORDERED that this docket shall remain open pending the resolution of the show cause proceedings. It is further

ORDERED that upon receipt of a response as outlined above, and upon USPC's request for a hearing, further proceedings will be scheduled by the Commission, at which time it will have an opportunity to contest the violations alleged above and/or the amount of the fine. It is further

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ORDERED that 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.

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)

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

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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.