

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	
proceedings for failure to file 1989)	
annual reports:)	
)	
METROMEDIA LONG DISTANCE, INC.)	DOCKET NO. 900252-TI
ITT COMMUNICATIONS SERVICES, INC.)	DOCKET NO. 900260-TI
ITT CHERNOW COMMUNICATIONS, INC.)	DOCKET NO. 900262-TI
)	ORDER NO. 22896
)	ISSUED: 5-7-90

The following Commissioners participated in the disposition of this matter:

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

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Rule 25-24.480, Florida Administrative Code (the Rule), requires each interexchange carrier (IXC) to file an annual report with our Division of Communications by January 31st of each year. Our Staff notified all IXCs by letter dated December 15, 1989, that the due date for the 1989 annual report was approaching. Thirty IXCs did not file their 1989 annual reports by the January 31, 1990 deadline.

The 1989 annual reports of five of these companies, including Metromedia Long Distance, Inc. (Metromedia), were received after the January 31st deadline, and this represents their third apparent violation of the Rule. The 1989 annual reports of twenty of these companies, including ITT Communications Services, Inc. (ITT-CS), and ITT Chernow Communications, Inc. (ITT-CC), were received after the January 31st deadline, and this represents their first apparent violation of the Rule. On January 16, 1990, the three subject companies filed requests for extension of the filing deadline until February 15, 1990; however, their 1989 annual reports were received on March 5, 1990.

Our Staff recommended three categories of proposed fines, ranging from \$2,000 to \$4,000, for the twenty companies that were late in filing for the first time, based on the length of

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tardiness. For the twenty companies who are first-time violators and whose reports were received in the following time periods, Staff urged us to adopt the fines indicated for each category: (1) February 1-15, 1990 - \$2,000; (2) February 16-28 - 1990, \$3,000; and (3) on or after March 1, 1990 - \$4,000. For the five companies who are third-time violators and whose reports were received in the following time periods, Staff urged us to adopt the fines indicated for each category: (1) February 1-15, 1990 - \$10,000; (2) February 16-28 - 1990, \$11,000; and (3) on or after March 1, 1990 - \$12,000.

Based on this methodology, our Staff urged us to order ITT-CS and ITT-CC to show cause why they should not each be fined \$4,000. For Metromedia, our Staff recommended that we order the company to show cause why it should not be fined \$12,000 for its third consecutive failure to file timely reports.

Upon consideration, we will order Metromedia to show cause why it should not be fined \$11,000 for the apparent violations of the Rule by all three companies. ITT-CC and ITT-CS are subsidiaries of Metromedia, and the group will be dealt with as a single violator. As the parent company, Metromedia will be ordered to act in these consolidated proceedings on behalf of all three companies. Because the companies sought in writing an extension of the filing deadline, we will treat the group as a member of the second category of third-time late-filers set out above. Additionally, Metromedia shall show cause why the certificates of all three companies should not be cancelled.

However, in an effort to save the time and costs that would otherwise be expended in pursuing these proceedings, we will offer the subject companies an alternative to showing cause. If Metromedia elects not to show cause but chooses instead to accept our offer in settlement, we will accept a payment of \$5,500 if such payment is received no later than 30 days after the issuance date of this Order. If Metromedia elects to accept this offer, we will suspend the remaining \$5,500 until the three subject company's 1990 reports are due on January 31, 1991. If this offer is accepted, the suspended \$5,000 will be waived upon the timely filing of all three companies' 1990 reports.

If any of the three 1990 reports is filed late, Metromedia will be required to pay the suspended \$5,500 for this apparent violation as well as an additional fine that we will impose for

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that future violation. Metromedia's acceptance of this settlement offer by paying the amount offered shall be deemed as acceptance of our condition that the suspended portion shall become due upon the failure to file any of the three 1990 reports on time. We reserve judgment as to the proper amount of the fine that will be imposed for violating the Rule next year, and we caution all IXCs to comply strictly with the Rule in the future. Future leniency will not be shown for continuous failures to comply with the Rule.

In the event that Metromedia fails to show cause within the time specified below or to pay the \$5,500 within 30 days of the issuance date of this Order, we hereby direct our Staff to cancel the three companies' certificates and to close the relevant dockets under the administrative authority delegated here. If the companies' certificates are cancelled for failure to respond or to pay the \$5,500, we hereby waive any fine that may otherwise be assessed.

Based on the foregoing, it is hereby

ORDERED by the Florida Public Service Commission that Metromedia Long Distance, Inc., shall show cause in writing why its certificate and the certificates of its subsidiaries, ITT Communications Services, Inc., and ITT Chernow Communications, Inc., should not be cancelled and why a \$11,000 fine should not be assessed against it for the company's apparent failure and for the apparent failures of these subsidiaries to file timely the report required by Rule 25-24.480, Florida Administrative Code. It is further

ORDERED that the written responses to this Order by Metromedia Long Distance, Inc., must be received by the Director of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the time established below. It is further

ORDERED that any response filed by Metromedia Long Distance, Inc., must contain specific statements of fact and law. It is further

ORDERED that failure by Metromedia Long Distance, Inc., to file a written response within the prescribed time period will constitute an admission of noncompliance, resulting in all allegations being admitted. It is further

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ORDERED that failure by Metromedia Long Distance, Inc., to request a hearing in any written response that is submitted will constitute a waiver of any right to a hearing in this matter. It is further

ORDERED that Metromedia Long Distance, Inc., may elect to comply with the requirements established in this Order in settlement of the apparent violations of Rule 25-24.480, Florida Administrative Code, and if so, the Staff of the Florida Public Service Commission is hereby delegated the authority to close administratively these dockets. It is further

ORDERED that, if Metromedia Long Distance, Inc., neither responds in writing to this Order nor pays the amount specified in the body of this Order, the Staff of the Florida Public Service Commission is hereby delegated the administrative authority to cancel the Certificates of Public Convenience and Necessity held by Metromedia Long Distance, Inc., ITT Communications Services, Inc., and ITT Chernow Communications, Inc., and to close these dockets, and the assessed fine is hereby waived in the event of such cancellations.

By ORDER of the Florida Public Service Commission,
this 7th day of MAY, 1990.


STEVE TRIBBIE, 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 May 28, 1990.

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.