

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 900261-TI
proceedings against LD*OS, Inc. for)	ORDER NO. 22897
failure to file its 1989 annual report)	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 report of LD*OS, Inc. (LD*OS), was received on February 8, 1990. Moreover, this represented the second time that LD*OS has been late in filing its annual report because its 1988 report was received after January 31, 1989. By reviewing these reports, our Staff has determined that the company apparently ceased operations on January 31, 1989.

Our Staff urged us to order LD*OS to show cause why its certificate should not be cancelled for failing to provide service for more than a year and why it should not be fined \$6,000 for its failure to file timely on two consecutive occasions. Upon consideration, we will adopt our Staff's recommendation.

DOCUMENT NUMBER-DATE

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However, in an effort to save the time and costs that would otherwise be expended in pursuing these proceedings, we will offer LD*OS an alternative to showing cause. If LD*OS elects not to show cause but chooses instead to accept our offer in settlement, we will accept a payment of \$3,000 if such payment is received no later than 30 days after the issuance date of this Order. If LD*OS elects to accept this offer, we will suspend the remaining \$3,000 until its 1990 report is due on January 31, 1991. Upon the timely filing of LD*OS's 1990 report, the suspended \$3,000 will be waived.

If the 1990 report is filed late, LD*OS will be required to pay the suspended \$3,000 for this apparent violation as well as an additional fine that we will impose for that future violation. LD*OS'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 its failure to file its 1990 report 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 LD*OS fails to show cause within the time specified below or to pay the \$3,000 within 30 days of the issuance date of this Order, we hereby direct our Staff to cancel the company's certificate and to close this docket under the administrative authority delegated here. If LD*OS's certificate is cancelled for failure to respond or to pay the \$3,000, 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 LD*OS, Inc., shall show cause in writing why its Certificate of Public Convenience and Necessity should not be cancelled and why a \$6,000 fine should not be assessed against it for its apparent failures to furnish service for more than one year and 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 LD*OS, 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

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ORDERED that any response filed by LD*OS, Inc., must contain specific statements of fact and law. It is further

ORDERED that failure by LD*OS, 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

ORDERED that failure by LD*OS, 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 LD*OS, Inc., may elect to comply with the requirements established in this Order in settlement of the apparent violation 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 this docket. It is further

ORDERED that, if LD*OS, 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 Certificate of Public Convenience and Necessity held by LD*OS, Inc., and to close this docket, and the assessed fine is hereby waived in the event of such cancellation.

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



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DLC

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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.