

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., 1989)
 Annual Report Requirements for Pay)
 Telephone Service Companies.)
)
 KENCORP, INC.) DOCKET NO. 891359-TC
) ORDER NO. 23563
) ISSUED: 10-02-90

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 FRANK S. MESSERSMITH

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:

On November 9, 1989, an investigation into a customer complaint against Continental Paytel, Inc. (Continental) began. This investigation revealed that the PATS access lines in question were subscribed to by Kencorp, Inc. (Kencorp) even though the premises owner had contracted with Continental for pay telephone service. Our Staff sent an inquiry to Kencorp and requested a response by December 1, 1990. No response was received to his initial inquiry.

During the investigation inquiries were also received regarding an uncertificated PATS company called Public Telecommunications, Inc. (PTI). It became apparent that PTI was actually Kencorp and a second request for information was sent to Kencorp. This request for information asked Kencorp to explain the customer complaint, and the business relationship between Kencorp, Continental and PTI.

Mr. Kenneth Rifkind, president of PTI responded to this second inquiry. Mr. Rifkind stated that the customer's

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complaint had been resolved with Consumer Affairs; that there was no legal relationship between Kencorp/PTI and Continental and that his attorney had failed to notify the Commission in a timely matter that a corporate name charge for Kencorp to PTI had been completed.

In addition to Kencorp's failure to respond to our Staff's inquiries and provide notice of corporate name changes, Kencorp also failed to file a Regulatory Assessment Return or pay the Regulatory Assessment for the July-December, 1989 period. Furthermore, the company reported its gross intrastate revenue for the July-December, 1989 period as only \$768.16 or less than three percent of its gross operating revenue of \$33,398.35.

Rule 25-4043, Florida Administrative Code, requires a written response to Staff inquiries or complaints within fifteen days. Kencorp/PTI completely failed to respond to Staff's initial inquiry and a subsequent inquiry became necessary to further our Staff's service investigation.

Rule 25-24.520, Florida Administrative Code, requires certificated PATS companies to notify our Staff of name changes within 10 days. Failure to notify our Staff of such name changes may result in the company improperly using its certificate in violation of Rule 25-24.512, Florida Administrative Code.

Florida Statute 350.113 and Rule 25-4.0161(2) Florida Administrative Code, requires the prompt and accurate payment of regulatory assessment fees (RAF). In addition to Kencorp/PTI's failure to file a RAF for the July, 1989 period the disparity between Kencorp's groups operating revenue and gross interstate revenue as reported for the January-June, 1989 RAF return is so substantial as to demand further investigation.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Kencorp, Inc. should show cause why its Pay Telephone Certificate Number 2271 should not be cancelled for violation of Rule 25-24.403, 25-24.520 and 25-24.512, Florida Administrative Code. It is further

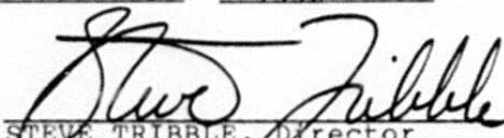
ORDERED that Kencorp, Inc. shall file a Regulatory Assessment Fee return for July-December, 1989 and explain the report for December, 1989. It is further

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ORDERED that Kencorp, Inc. shall show cause why it should not be fined \$5,000 for violation of Rules 25-403, 25-24.520, 25-24.512 and 25-24.0161(2), Florida Administrative Code. It is further

ORDERED that this docket shall remain open pending resolution of the this Order.

By ORDER of the Florida Public Service Commission,
 this 2nd day of OCTOBER, 1990.


 STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)

JKA

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 October 22, 1990.

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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.