

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., 1990)
Annual Report Requirements for Pay)
Telephone Service Companies.)

BARNEY LOWENSTEIN)
COMMERCIAL TELEPHONES, INC.)
FISHERMAN'S WHARF)
JONI'S COURTTREE COUNTRY STORE)
T.J.'S OF CAPE CORAL D/B/A)
JORDY'S ROADSIDE RESTAURANT)
UNIQUE PHONE SERVICE)

DOCKET NO. 910435-TC)
DOCKET NO. 910436-TC)
DOCKET NO. 910437-TC)
DOCKET NO. 910438-TC)
DOCKET NO. 910439-TC)
DOCKET NO. 910440-TC)
ORDER NO. 24524)
ISSUED: 5/13/91)

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON
BETTY EASLEY
GERALD L. GUNTER
MICHAEL MCK. WILSON

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. As certificated Pay Telephone Service (PATS) providers, the companies listed in the caption of this Order are subject to the jurisdiction of this Commission and have failed to file the required reports in a timely manner. The subject companies and their respective certificate numbers are as follows:

DOCUMENT NUMBER-DATE

04705 MAY 13 1991

100-RECORDS/REPORTING

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<u>Name</u>	<u>Certificate No.</u>
BARNEY LOWENSTEIN	2571
COMMERCIAL TELEPHONES, INC.	2568
FISHERMAN'S WHARF	2563
JONI'S COURTTREE COUNTRY STORE	2536
T.J.'S OF CAPE CORAL D/B/A JORDY'S ROADSIDE RESTAURANT	2535
UNIQUE PHONE SERVICE	2548

Pursuant to Section 364.285, Florida Statutes, this Commission is authorized to levy a fine of up to \$25,000 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 \$250, or in the alternative, have its certificate revoked for failure to file its 1990 annual report as required by Rule 25-24.520. 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 is hereby cancelled.

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 is 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:

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

Therefore, 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 \$250 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 will 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

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

ORDERED that if any Company described herein elects to pay the \$250 fine within 20 days of the date of this Order, this docket shall be closed. It is further

ORDERED that if no timely response to this Order is filed by a Company described herein, that Company's certificate is hereby revoked as set forth in the body of this Order.

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By ORDER of the Florida Public Service Commission, this 13th
day of MAY, 1991.



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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. 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 25-22.029(4), 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 JUNE 03, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected 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 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.

MEMORANDUM

May 13, 1991

TO : DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES (ADAMS) *JKA* *TH*

RE : DOCKETS NOS. 910435-TC, 910436-TC, 910437-TC, 910438-TC, 910439-TC, 910440-TC - INITIATION OF SHOW CAUSE PROCEEDINGS FOR VIOLATION OF COMMISSION RULE 25-24.520, 1990 ANNUAL REPORT REQUIREMENT, AND COMMISSION RULE 25-4.043, RESPONSE REQUIREMENT.

24/5/24

Attached is an 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 in the above-referenced dockets, which is ready to be issued.

JKA/ttl
Attachment
cc: Division of Communications

910435A.TL

Responses due 6/3/91

DOCUMENT NUMBER-DATE
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RSC-RECORDS/REPORTING