

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause ) DOCKET NO. 910178-TC  
proceedings against ARDAN COMMUNICATIONS ) ORDER NO. 25091  
for violation of Rule 25-24.520, ) ISSUED: 9/23/91  
Annual Report Requirement. )  
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY

FINAL ORDER RESOLVING  
SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Ardan Communications (Ardan or the Company) has been a certificated pay telephone service (PATS) provider since August 8, 1989. As a certificated PATS provider, Ardan is subject to our jurisdiction.

On May 2, 1991, we issued Order No. 24468 requiring Ardan to show cause why it should not be fined \$250 for failure to file an Annual Report for 1990 as required by Rule 25-24.520, Florida Administrative Code. Order No. 24468 also provided that if Ardan elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24468 provided that if Ardan failed to file a timely response, its certificate would be canceled and this docket closed.

On May 14, 1991, Ardan filed a response to Order No. 24468. In its response, Ardan indicated that it had failed to file its 1990 Annual Report because of an oversight and that the Company had sought to correct this oversight by late filing the report on February 21, 1991.

While Ardan's initiative in attempting to correct its admitted oversight is commendable, a late filing is insufficient cause to set aside the fine proposed in Order No. 24468. We have repeatedly ruled that timely filing is an essential element of the Annual Report Requirement. In completing its application for a PATS certificate, Ardan was placed on notice of the Annual Report Requirement, including the due date. Ardan has failed to set forth any legal or factual argument sufficient to set aside the proposed

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fine. Ardan's response effectively constitutes a default and a waiver of the right to a formal hearing.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Ardan Communications shall, within 30 days, pay the \$250 fine proposed in Order No. 24468 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 2343. It is further

ORDERED that if Ardan Communications elects to voluntarily cancel its certificate, the \$250 fine shall not be imposed, but the Company shall still be liable for the 1991 Regulatory Assessment Fee. It is further

ORDERED that if Ardan Communications fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 2343 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 23rd day of SEPTEMBER, 1991.

  
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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

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hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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

September 17, 1991

TO : DIVISION OF RECORDS AND REPORTING  
FROM : DIVISION OF LEGAL SERVICES (ADAMS)  
RE : DOCKET NO. 910178-TC

*JKA TR*

*25091*

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Attached is a FINAL ORDER RESOLVING SHOW CAUSE PROCEEDINGS in the above-referenced docket, which is ready to be issued.

JKA/ttl  
Attachment  
cc: Division of Communications

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