

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) DOCKET NO. 910357-TC
proceedings against SUNSHINE SHELL) ORDER NO. 25144
for violation of Rule 25-24.520,) ISSUED: 9/30/91
Annual Report Requirement.)
_____)

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:

Sunshine Shell (Sunshine or the Company) has been a certificated pay telephone service (PATS) provider since December 24, 1987. As a certificated PATS provider, Sunshine is subject to our jurisdiction.

On May 13, 1991, we issued Order No. 24515 requiring Sunshine to show cause why it should not be fined \$250 for failure to file an Annual Report for 1991 as required by Rule 25-24.520, Florida Administrative Code. Order No. 24515 also provided that if Sunshine elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24515 provided that if Sunshine failed to file a timely response, its certificate would be canceled and this docket closed.

On May 28, 1991, Sunshine filed a response to Order No. 24515. In its response, Sunshine indicated that it had filed the Annual Report along with its Regulatory Assessment Fee on December 17, 1990. As evidence of this assertion, Sunshine produced a copy of a money order made out to this Commission in the amount of \$25.

Sunshine's response is insufficient to justify setting aside the proposed \$250 fine. We have often ruled that the Annual Report Requirement and the Regulatory Assessment Fee Requirement are separate and distinct requirements. The evidence proffered by Sunshine might be adequate to prove compliance with the Regulatory

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Assessment Fee Requirement but does nothing to prove compliance with the Annual Report Requirement.

Sunshine's response fails to set forth specific legal or factual arguments sufficient to set aside the fine. Essentially, Sunshine's response is a default and a waiver of the right to a hearing.


Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Sunshine Shell shall, within 30 days, pay the \$250 fine proposed in Order No. 24515 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 1788. It is further

ORDERED that if Sunshine Shell 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 Sunshine Shell fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 1788 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 30th day of SEPTMBER, 1991.



STEVE TRIBBLE, 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.

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.

M E M O R A N D U M

September 27, 1991

TO : DIVISION OF RECORDS AND REPORTING
FROM : DIVISION OF LEGAL SERVICES (ADAMS)
RE : DOCKET NO. 910357-TC

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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
910357a.ttl

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