

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause	)	DOCKET NO. 910424-TC
proceedings against M & J DONUTS #3,	)	ORDER NO. 25179
INC. for violation of Rule 25-24.520,	)	ISSUED: 10/09/91
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  
 MICHAEL MCK. WILSON

FINAL ORDER RESOLVING  
SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

M & J Donuts #3, Inc. (M & J or the Company) has been a certificated pay telephone service (PATS) provider since June 14, 1990. As a certificated PATS provider, M & J is subject to our jurisdiction.

On May 2, 1991, we issued Order No. 24467 requiring M & J 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. 24467 also provided that if M & J elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24467 provided that if M & J failed to file a timely response, its certificate would be canceled and this docket closed.

On May 17, 1991, M & J filed a response to Order No. 24467. M & J argues that it paid the Regulatory Assessment Fee, that it was not currently providing PATS service, and that it had been told by someone in Tallahassee that it was only required to pay a \$25 fee.

M & J's response is deficient on its face. The response fails to make out any factual or legal argument sufficient to set aside the proposed fine. The Annual Report requirement is separate and distinct from the Regulatory Assessment Fee requirement. Furthermore, the Annual Report requirement is predicated upon possession of the certificate and not contingent upon provision of

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PATS. M & J's response constitutes a default and a waiver of the right to a hearing.

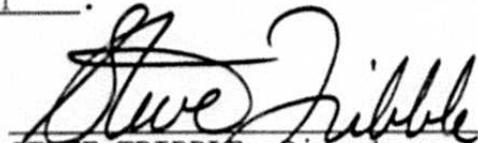
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that M & J Donuts #3, Inc. shall, within 30 days, pay the \$250 fine proposed in Order No. 24467 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 2513. It is further

ORDERED that if M & J Donuts #3, Inc. 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 M & J Donuts #3, Inc. fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 2513 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 9th day of OCTOBER, 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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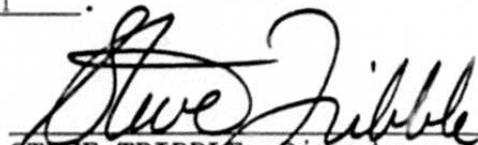
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hearing or judicial review will be granted or result in the relief sought.

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.