

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910187-TC
proceedings against B & I COFFEE SHOP,)	
INC. for violation of Commission Rule)	ORDER NO. 25187
25-24.520, 1990 Annual Report, and)	
Rule 25-4.043, Response Requirement.)	ISSUED: 10/10/91
)	

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:

B & I Coffee Shop, Inc. (B & I) has been a certificated pay telephone service provider since September 21, 1987 and as such, is subject to our jurisdiction. On May 2, 1991, we issued Order No. 24469 requiring B & I to show cause why it should not be required to pay a \$250 fine for failing to file a 1990 Annual Report as required by Rule 25-24.520, Florida Administrative Code. In the alternative, Order No. 24469 offered B & I the option of voluntarily canceling its certificate in lieu of a fine.

On May 20, 1991, B & I filed a response to Order No. 24469. In essence, B & I's response consists of an assertion that the report was mailed in a timely fashion and a copy of the report.

We note that B & I failed to raise any legal or factual argument sufficient to overcome the presumption of its failure to comply with Rule 25-24.520, Florida Administrative Code. Because of the inadequacies of its arguments, essentially B & I's response is a default and an admission of the violation alleged.

In Docket No. 910334-TC, we declined to impose a \$250 fine because Pro Telecom, Inc. provided a copy of an annual report and asserted that the original had been filed in a timely manner. In the instant case, B & I has produced a similar level of evidence. In order to be consistent with fine amounts, we find it appropriate

DOCUMENT NUMBER-DATE

10064 OCT 10 1991

FPSC-RECORDS/REPORTING

ORDER NO. 25187
DOCKET NO. 910187-TC
PAGE 2

to impose a \$100 fine similar to that imposed in Docket No. 910334-TC.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that B & I Coffee Shop, Inc. shall pay a \$100 fine for violation of Rule 25-24.520, Florida Administrative Code, as alleged in Order No. 24469. It is further

ORDERED that this docket shall remain open 30 days from the date of this Order pending payment of the fine. It is further

ORDERED that if B & I Coffee Shop, Inc. fails to pay the fine within 30 days of the date of this Order, then Certificate of Public Convenience and Necessity No. 1727 shall be canceled and this docket closed.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: Kay Flynn
Chief, Bureau of Records

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

ORDER NO. 25187
DOCKET NO. 910187-TC
PAGE 3

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.