

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910362-TC
proceedings against TED ODDER)	ORDER NO. 25190
for violation of Rule 25-24.520,)	ISSUED: 10/10/91
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:

Ted Odder (Mr. Odder) has been a certificated pay telephone service (PATS) provider since February 28, 1986. As a certificated PATS provider, Mr. Odder is subject to our jurisdiction.

On May 13, 1991, we issued Order No. 24515 requiring Mr. Odder to show cause why he 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. 24515 also provided that if Mr. Odder elected to cancel his PATS certificate, no fine would be imposed. Finally, Order No. 24515 provided that if Mr. Odder failed to file a timely response, his certificate would be canceled and this docket closed.

On May 28, 1991, Mr. Odder filed a response to Order No. 24515. Mr. Odder argues that in the past he has come to rely on the Annual Report form he annually received from our Staff. He further argues that because he did not receive the form for 1990, he simply forgot to file the report.

Mr. Odder's response fails to make out a response sufficient to set aside the proposed fine. We have repeatedly ruled that forms are provided to certificated PATS providers as a convenience and a courtesy. The Annual Report filing requirement is not contingent upon receipt of a form. Mr. Odder's response constitutes a default and a waiver of the right to a hearing.

DOCUMENT NUMBER-DATE

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Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Ted Odder shall, within 30 days, pay the \$250 fine proposed in Order No. 24515 or, in the alternative, voluntarily cancel his Certificate of Public Convenience and Necessity No. 613. It is further

ORDERED that if Ted Odder elects to voluntarily cancel his certificate, the \$250 fine shall not be imposed, but he shall still be liable for the 1991 Regulatory Assessment Fee. It is further

ORDERED that if Ted Odder fails to respond to this Order, his Certificate of Public Convenience and Necessity No. 613 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 10th day of OCTOBER, 1991.

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.

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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.