

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910258-TC
proceedings against JAIME M. CORTES)	ORDER NO. 25191
for violation of Rule 25-24.520,)	ISSUED: 10/10/91
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
- MICHAEL MCK. WILSON

FINAL ORDER RESOLVING
SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Jaime M. Cortes (Mr. Cortes) has been a certificated pay telephone service (PATS) provider since January 25, 1989. As a certificated PATS provider, Mr. Cortes is subject to our jurisdiction.

On May 7, 1991, we issued Order No. 24495 requiring Mr. Cortes 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. 24495 also provided that if Mr. Cortes elected to cancel his PATS certificate, no fine would be imposed. Finally, Order No. 24495 provided that if Mr. Cortes failed to file a timely response, his certificate would be canceled and this docket closed.

On April 1, 1991, Mr. Cortes filed an Annual Report, together with a Regulatory Assessment Fee Return. This report was filed two months late and after initiation of the show cause process. On May 15, 1991, Mr. Cortes filed a response to Order No. 24495. In his response Mr. Cortes asserted that he was simply late in filing and had assumed that by cashing his check for his Regulatory Assessment Fee, we had accepted his corrective efforts as sufficient.

We have ruled in the past that timeliness is an essential element of the Annual Report Requirement. Furthermore, acceptance of the Regulatory Assessment Fee can in no way relieve a certificated entity from liability for the late filing of the

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Annual Report. Mr. Cortes' response is inadequate on its face and constitutes a default and waiver of the right to a hearing.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Jaime M. Cortes shall, within 30 days, pay the \$250 fine proposed in Order No. 24495 or, in the alternative, voluntarily cancel his Certificate of Public Convenience and Necessity No. 2226. It is further

ORDERED that if Jaime M. Cortes 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 Jaime M. Cortes fails to respond to this Order, his Certificate of Public Convenience and Necessity No. 2226 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

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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.