

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show) DOCKET NO. 920512-TC
cause proceedings against) ORDER NO. PSC-93-0249-FOF-TC
RICHARD M. SLAZAK PAY) ISSUED: 02/15/93
TELEPHONES for violation of)
Rule 25-4.0161(2), F.A.C.,)
Regulatory Assessment Fee)
Filing.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA J. JOHNSON
LUIS J. LAUREDO

ORDER RESOLVING SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Richard M. Slazak Pay Telephones (Slazak) has been a certificated pay telephone service (PATS) provider since February 15, 1986. As a certificated PATS provider Slazak is subject to our jurisdiction pursuant to Chapter 364, Florida Statutes.

On August 27, 1992 we issued Order No. PSC-92-0888-FOF-TC requiring Slazak to show cause in writing why it should not be fined \$250 or in the alternative have its Certificate cancelled for failure to timely file the annual report as required by Rule 25-4.0161(2), Florida Administrative Code. PSC-92-0888-FOF-TC required Slazak to respond by September 16, 1992.

On September 14, 1992 Slazak filed a response to PSC-92-0888-FOF-TC. Slazak's response is essentially a factual admission, a default and a waiver of the right to a formal hearing. Slazak offers no legal or factual argument sufficient to set aside the proposed penalty. Slazak argues that it paid the fee and filed the annual report late.

We have repeatedly ruled that timeliness is an essential element of the filing requirement and subsequent filing does not cure such a violation. PATS providers are placed on notice of these requirements as part of the Certificate application. Accordingly, we find it appropriate to impose the penalty proposed in PSC-92-0888-FOF-TC. If Slazak elects to cancel its Certificate No. 598 no fine should be imposed and this docket should remain open. If Slazak fails to respond to the final Order, no fine

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should be imposed, the certificate cancelled and the docket closed. If Slazak elects to pay the \$250 fine no further action should be taken and the docket closed.

Based on the foregoing, it is

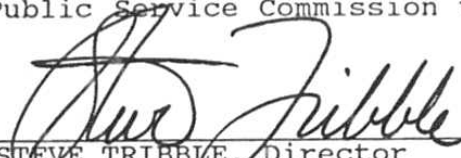
ORDERED by the Florida Public Service Commission that the penalties imposed in Order No. PSC-92-0888-FOF-TC against Richard M. Slazak Pay Telephones are hereby imposed. It is further

ORDERED that if Richard M. Slazak Pay Telephones elects to cancel Certificate No. 598 no fine shall be imposed and this docket shall be closed. It is further

ORDERED that if Richard M. Slazak Pay Telephones pays the \$250 fee, no further action will remain to be taken and this docket shall be closed. It is further

ORDERED that this docket shall remain open 30 days to allow a response from Richard M. Slazak and then the docket shall be closed.

By ORDER of the Florida Public Service Commission this 15th day of February, 1993.



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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.