

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 930797-TC
proceedings against STEVE SCHIFF) ORDER NO. PSC-93-1654-FOF-TC
AND DEBORAH TOFANO for violation) ISSUED: November 12, 1993
of Rule 25-24.520(1)(a) and (b),)
F.A.C., Reporting Requirements,)
and Rule 25-4.043, F.A.C.,)
Response to Commission Staff)
Inquiries.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

On June 7, 1993, the United States Postal Service returned mail addressed to Steve Schiff and Deborah Tofano, the holders of Pay Telephone Certificate No. 2831, to this Commission. The returned mail displayed a new mailing address for Mr. Schiff and Ms. Tofano.

The Staff of this Commission thereupon sent Mr. Schiff and Ms. Tofano two letters, dated June 8 and September 9, 1993, the second via Certified U.S. Mail. The return receipt was signed September 13, 1993. No response was ever made. Next, Staff attempted to reach Mr. Schiff or Ms. Tofano via the telephone number listed in this Commission's records. Staff was informed that neither Mr. Schiff nor Ms. Tofano were located at that number. Staff then obtained a new listing for Mr. Schiff and Ms. Tofano from directory assistance. However, all attempts to reach the providers at that number have been unsuccessful.

Under Rule 25-24.514(1)(a) & (b), Florida Administrative Code, this Commission may cancel a certificate for a violation of the terms and conditions under which a certificate was granted or for a violation of a Commission rule or order. Pursuant to Rule 25-24.520(1)(a) & (b), Florida Administrative Code, pay telephone providers are required to inform this Commission of any change in

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their address or the name, title, and telephone number of their primary liaison person, in writing, within ten days after such change.

Since we have not been able to contact Mr. Schiff or Ms. Tofano, it appears that they are in violation of Rule 25-24.520(1)(a) & (b), Florida Administrative Code. In addition, since Mr. Schiff and Ms. Tofano never responded to our Staff's letters, it appears that they are in violation of Rule 25-4.043, Florida Administrative Code, which requires certificate holders to respond to Commission inquiries, in writing, within fifteen days of the inquiry.

Accordingly, we find it appropriate to require Mr. Schiff and Ms. Tofano to show cause, in writing, within twenty days of the date of this Order, why we should not cancel Certificate No. 2831. Their written response must contain specific allegations of fact and law. Moreover, should Mr. Schiff and Ms. Tofano fail to file a timely response, such failure shall constitute an admission of the alleged violations, a waiver of any right to a hearing, and shall result in the automatic cancellation of Certificate No. 2831.

It is, therefore,

ORDERED by the Florida Public Service Commission that Steve Schiff and Deborah Tofano shall show cause, in writing, within twenty days of the date of this Order, why we should not cancel Certificate No. 2831. It is further

ORDERED that Mr. Schiff's and Ms. Tofano's written response shall contain specific allegations of fact and law. It is further

ORDERED that, should Mr. Schiff and Ms. Tofano fail to file a timely response to this Order, such failure shall constitute an admission of the violations alleged herein, a waiver of any right to a hearing, and shall result in the automatic cancellation of Certificate No. 2831.

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By ORDER of the Florida Public Service Commission this 12th
day of November, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on December 2, 1993.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida

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Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.