

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Show Cause ) DOCKET NO. 940164-TC  
Proceedings Against Brian R. ) ORDER NO. PSC-94-0351-FOF-TC  
Albury for Failure to Comply ) ISSUED: March 28, 1994  
With 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  
DIANE K. KIESLING  
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

By letter dated July 30, 1993, Staff informed Brian R. Albury, the holder of Pay Telephone Certificate No. 2909, of apparent violations of service standards discovered during routine service evaluations of his pay telephones. Staff requested that Mr. Albury respond to this letter within fifteen days. Mr. Albury never responded to Staff's letter. On September 16, 1993, Staff sent Mr. Albury a second letter, by Certified U.S. Mail, detailing the violations and advising him that failure to correct the service violations or respond to Staff's inquiries could result in a fine or the cancellation of his certificate. Although the return receipt card appears to have been signed by Mr. Albury, he has not responded.

Staff then attempted to contact Mr. Albury at the telephone number provided on his most recent regulatory assessment fee filing; however, the number was apparently for facsimile transmissions. Accordingly, on February 7, 1994, Staff transmitted a message encouraging Mr. Albury to respond to Staff's concerns. Still, Mr. Albury made no response.

Under Rules 25-4.043 and 25-24.505(1), Florida Administrative Code, pay telephone service providers are required to respond to Commission Staff inquiries, in writing, within fifteen days of such inquiries. Since Mr. Albury has not responded to Staff's inquiries, it appears that he is in violation of Rules 25-4.043 and

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25-24.505(1), Florida Administrative Code. We, therefore, find it appropriate to require Mr. Albury to show cause, in writing, why he should not be fined \$500 and/or have Certificate No. 2909 cancelled, for violating Rules 25-4.043 and 25-24.505(1), Florida Administrative Code. Mr. Albury's response must contain specific allegations of fact and law. It should also include a statement certifying that all pay telephone service standards violations have been corrected. If Mr. Albury fails to file a timely response to this Order, such failure shall be deemed an admission of the violations alleged herein and a waiver of any right to a hearing. Moreover, should Mr. Albury fail to file a timely response, Certificate No. 2909 shall be cancelled administratively and this docket shall be closed.

It is, therefore,

ORDERED by the Florida Public Service Commission that Brian R. Albury, the holder of Certificate No. 2909, shall show cause, in writing, why he should not be fined \$500 and/or have Certificate No. 2909 cancelled for failing to respond to Commission Staff inquiries, in violation of Rules 25-4.043 and 25-24.505(1), Florida Administrative Code. It is further

ORDERED that Mr. Albury's response to this Order must contain specific allegations of fact and law. It is further

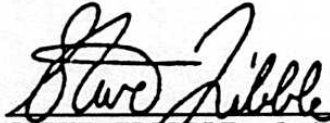
ORDERED that Mr. Albury's response to this Order must contain a statement certifying that all pay telephone service standards violations have been corrected. It is further

ORDERED that, should Mr. Albury fail to file a timely response to this Order, such failure shall be deemed an admission of the violations alleged herein and a waiver of any right to a hearing. It is further

ORDERED that, if Mr. Albury fails to file a response to this Order in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, Certificate No. 2909 shall be cancelled and this docket shall be closed.

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By ORDER of the Florida Public Service Commission, this  
28th day of March, 1994.



STEVE TRIBBLE, Acting 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 April 18, 1994.

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

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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.