

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Beuford B. Wentworth for violation of Rule 25-24.515, F.A.C., Pay Telephone Service.

DOCKET NO. 990622-TC
ORDER NO. PSC-99-1230-SC-TC
ISSUED: June 22, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Beuford B. Wentworth (BBW) currently holds Certificate of Public Convenience and Necessity No. 3096, issued by this Commission on August 28, 1992, authorizing the provision of pay telephone service. On January 26, 1999, the 1998 regulatory assessment fee return of BBW reported \$118,308 in gross intrastate revenues and 89 pay telephones in operation.

On February 23, 1999 and February 24, 1999, our staff performed routine service evaluations of four pay telephone stations operated by Beuford B. Wentworth. On March 22, 1999, our staff received a Service Violation Correction Form from BBW signifying that all apparent violations were corrected by replacement of signage.

On April 14, 1999, our staff reevaluated the four pay telephone stations. Although BBW reported that all violations had been corrected, the table provided as Attachment A, incorporated herein by reference, depicts those apparent rule violations that were the same violations observed during the initial evaluations.

DOCUMENT NUMBER-DATE

07516 JUN 22 99

FPSO-RECORDS/REPORTING

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By Section 364.285, Florida Statutes, we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$25,000 per day for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of this Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

We believe that BBW's conduct in providing pay telephone services in apparent violation of Commission Rule 25-24.515, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as BBW's conduct at issue here, would meet the standard for a "willful violation."

Accordingly, BBW is hereby ordered to show cause in writing within 21 days of the date of this Order why BBW should not have Certificate No. 3096 canceled or be fined \$800 for apparent violation of Rule 25-24.515, Florida Administrative Code. BBW's response must contain specific allegations of fact or law.

If Beuford B. Wentworth timely responds to this show cause order, this docket shall remain open pending resolution of the show cause proceeding. If BBW fails to respond to this show cause order, and the fine is not paid within five business days after the expiration of the show cause response period, certificate number 3096 shall be canceled and this docket closed. If the fine is paid it will be remitted by this Commission to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, and this docket shall be closed.

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Based on the foregoing, it is

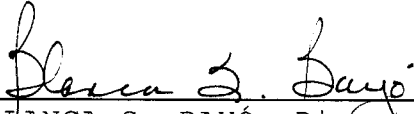
ORDERED by the Florida Public Service Commission that Beuford B. Wentworth shall show cause in writing within 21 days of the date of this Order why it should not be fined \$800 for apparent violation of Rule 25-24.515, Florida Administrative Code. It is further

ORDERED that any response to this Order to Show Cause filed by Beuford B. Wentworth shall contain specific allegations of fact and law. It is further

ORDERED that failure to respond to this Order to Show Cause in the manner and by the date set forth in the "Notice of Further Proceedings or Judicial Review," attached hereto, shall constitute an admission of the violations described in the body of this Order, waiver of right to a hearing, and will result in the automatic assessment of the \$800 fine. It is further

ORDERED that in the event Beuford B. Wentworth fails to respond to this Order and the fine is not received within five business days after the expiration of the show cause response period, certificate number 3096 shall be canceled and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd day of June, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JAM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 13, 1999.

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 and a default pursuant to Rule 28-106.111(4), Florida 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.

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ATTACHMENT A

Pay Telephone Station Number	Rule 25-24.515(9)(a), Florida Administrative Code			
	Address of Responsible Party for Repairs and Refunds Not Displayed	Telephone Number Not Displayed	Location Address Not Displayed	Name of Provider Not Displayed
904-695-9341	X	X	X	X
904-695-9056	X			X
904-724-7950				X
904-725-9811				X

M E M O R A N D U M

June 21, 1999

RECEIVED-FPSC

21 JUN 21 PM 3:54

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (MILLER) *Jam CB*

RE: DOCKET NO. 990622-TC - INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST BEUFORD B. WENTWORTH FOR
VIOLATION OF RULE 25-24.515, F.A.C., PAY TELEPHONE
SERVICE.

99-1230-5C

Attached is an ORDER TO SHOW CAUSE, with attachments, to be issued in the above-referenced docket. (Number of pages in order - 5)

JAM/anr
Attachment
cc: Division of Communications
I: 990622.jam

ATTACHMENT(S) NOT ON-LINE

See 3

*1 Certified
6/22*

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Date 6, 23, 99
 Number of Originals 5 Copies Per Original 19
 Requested By Pultra

Item Presented _____
 Agenda For (Date) _____ Order No. 99-1230 In Docket No. 990622
 Notice of _____ For (Date) _____ In Docket No. _____
 Other _____

Special Handling Instructions _____

Distribution/Mailing			
Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>19</u>	<u>Commission Offices</u>	<u>--</u>	_____
<u>1</u>	<u>Docket Mailing List - Mailed</u>	_____	_____
	<u>Docket Mailing List - Faxed</u>	_____	_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification
 Job Number 220 Verified By Michael
 Date and Time Completed 10/24 Job Checked For Correctness and Quality (Initial) u

Mail Room Verification
 Date Mailed / Verified By /