

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against TSC Payphone Corp. for apparent violation of Rule 25-24.515, F.A.C., Pay Telephone Service.

DOCKET NO. 990821-TC
ORDER NO. PSC-99-1587-SC-TC
ISSUED: August 13, 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:

TSC Payphone Corp. (TSC) currently holds Certificate of Public Convenience and Necessity No. 5555, issued by this Commission on January 13, 1998, authorizing the provision of pay telephone service. On January 29, 1999, TSC filed a 1998 regulatory assessment fee return, reporting gross intrastate revenues of \$725,415 and 347 pay telephones in operation. On February 25, 1999, our staff performed routine service evaluations on several pay telephones operated by TSC. Through written correspondence, we notified TSC of apparent violations. On March 25, 1999, we received a Service Violation Correction Form from TSC signifying that all apparent violations were corrected. On April 23, 1999, our staff reevaluated the pay telephone station. Although TSC reported that all violations had been corrected, the table provided as Attachment A, incorporated herein by reference, depicts the apparent rule violation that was the same apparent violation observed during the initial evaluation.

Pursuant to Section 364.285, Florida Statutes, this Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 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 the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of

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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).

In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, 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, we nevertheless found it appropriate to order the company 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 TSC's conduct at issue here, would meet the standard for a "willful violation." We find that TSC'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.

Accordingly, we find it appropriate to order TSC to show cause in writing within 21 days of the date of this Order why it should not have Certificate No. 5555 canceled or be fined \$100 for apparent violation of Rule 25-24.515, Florida Administrative Code. If TSC timely responds to this Order, this docket shall remain open pending resolution of the show cause proceeding. TSC's response must contain specific allegations of fact or law. If TSC fails to respond to the Commission's Order to show cause, and the fine is not paid after reasonable collection efforts by the Commission, Certificate Number 5555 shall be canceled.

Any fine monies received by the Commission shall be forwarded to the Office of the Comptroller for deposit in the State of Florida General Revenue Fund, pursuant to Section 364.285, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TSC Payphone Corp. shall show cause in writing within 21 days of the issuance date of this Order why it should not be fined \$100 or have Certificate No. 5555 canceled for apparent violation of Rule 25-24.515, Florida Administrative Code. It is further

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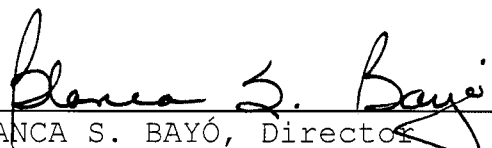
ORDERED that any response to the Order to Show Cause filed by TSC Payphone Corp. shall contain specific allegations of fact and law and shall identify the company name and this docket number. It is further

ORDERED that failure to respond to this Order to Show Cause in the manner and date set forth in the "Notice of Further Proceedings and Judicial Review" section of this Order shall constitute an admission of the violations described in the body of this Order, waiver of the right to a hearing, and will result in the automatic assessment of the \$100 fine. It is further

ORDERED that in the event TSC Payphone Corp. fails to respond to this Order and the fine is not paid after reasonable collection efforts by the Commission, Certificate Number 5555 shall be canceled. It is further

ORDERED that upon payment of the fine or cancellation of the certificate, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 13th day of August, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DMC

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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 September 3, 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	25-24.515(13)(a), Florida Administrative Code
	Incoming Calls Can Not Be Received (Bell Can Not Be Heard)
954-463-9703	X

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Date 8/17/99
Number of Originals 5 Copies Per Original 19
Requested By [Signature]

Item Presented _____
Agenda For (Date) _____ Order No. 99-1587 In Docket No. 990821
Notice of _____ For (Date) _____ In Docket No. _____
Other _____

Special Handling Instructions _____

Distribution/Mailing			
Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>19</u>	Commission Offices		
	Docket Mailing List - Mailed <u>[Signature]</u>		
	Docket Mailing List - Faxed		

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

Print Shop Verification
Job Number 168 Verified By [Signature]
Date and Time Completed 8/17 Job Checked For Correctness and Quality (Initial) [Initials]

Mail Room Verification
Date Mailed / Verified By /

RECEIVED-PPSC

M E M O R A N D U M

99 AUG 13 AM 10:20

August 11, 1999

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CLEMONS) *DMC*

RE: DOCKET NO. 990821-TC - INITIATION OF SHOW CAUSE
PROCEEDINGS AGAINST TSC PAYPHONE CORP. FOR APPARENT
VIOLATION OF RULE 25-24.515, F.A.C., PAY TELEPHONE
SERVICE.

1587-SC

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

DMC/anc
Attachment
cc: Division of Communications
I: 990821o.dmc

1 certified.