

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) DOCKET NO. 910342-TC
proceedings against ROSSI'S, INC.) ORDER NO. 25103
for violation of Rule 25-24.520,) ISSUED: 9/24/91
Annual Report Requirement.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY

FINAL ORDER RESOLVING
SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Rossi's, Inc. (Rossi's or the Company) has been a certificated pay telephone service (PATS) provider since October 25, 1985. As a certificated PATS provider, Rossi's is subject to our jurisdiction.

On May 13, 1991, we issued Order No. 24517 requiring Rossi's to show cause why it should not be fined \$250 for failure to file an Annual Report for 1990 as required by Rule 25-24.520, Florida Administrative Code. Order No. 24517 also provided that if Rossi's elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24517 provided that if Rossi's failed to file a timely response, its certificate would be canceled and this docket closed.

On May 16, 1991, Rossi's filed an Annual Report which appears to be in response to Order No. 24517. At the bottom of the report, Colleen Richards indicates that she thought she had filed the report, but upon finding it she filed it.

If we assume that the late-filed report is indeed a response to Order No. 24517, we find it inadequate as a shield to the penalties proposed. We have repeatedly ruled that a late-filed Annual Report is not a sufficient remedy for violation of Rule 25-24.520.

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Rossi's has failed to set forth any factual or legal arguments sufficient to setting aside the fine proposed in Order No. 24517. Rossi's response is, effectively, an admission of the allegations set forth in Order No. 24517, a default and a waiver of the right to a formal hearing.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Rossi's, Inc. shall, within 30 days, pay the \$250 fine proposed in Order No. 24517 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 284. It is further

ORDERED that if Rossi's, Inc. elects to voluntarily cancel its certificate, the \$250 fine shall not be imposed, but the Company shall still be liable for the 1991 Regulatory Assessment Fee. It is further

ORDERED that if Rossi's, Inc. fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 284 shall be canceled and this docket closed.

By ORDER of the Florida Public Service Commission, this 24th day of SEPTEMBER, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

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

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

MEMORANDUM

September 19, 1991

TO : DIVISION OF RECORDS AND REPORTING
FROM : DIVISION OF LEGAL SERVICES (ADAMS)
RE : DOCKET NO. 910342-TC

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Attached is a FINAL ORDER RESOLVING SHOW CAUSE PROCEEDINGS in the above-referenced docket, which is ready to be issued.

JKA/ttl
Attachment
cc: Division of Communications

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