

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910222-TC
proceedings against E D L, Inc. d/b/a)	ORDER NO. 25109
EL FLORIDITA RESTAURANT for violation)	ISSUED: 9/24/91
of Rule 25-24.520, 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:

E D L, Inc. d/b/a El Floridita Restaurant (E D L or the Company) has been a certificated pay telephone service (PATS) provider since January 10, 1989. As a certificated PATS provider, E D L is subject to our jurisdiction.

On May 8, 1991, we issued Order No. 24503 requiring E D L 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. 24503 also provided that if E D L elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24503 provided that if E D L failed to file a timely response, its certificate would be canceled and this docket closed.

On May 15, 1991, E D L filed a response to Order No. 24503. In its response, E D L indicates that it has not yet provided pay telephone service. E D L requests that its certificate be "...placed on hold for a maximum of one year free of dues, fees, etc." Nowhere in its response does E D L specifically address its failure to file an Annual Report.

E D L's response is essentially a settlement proposal. Our rules do not provide for a "hold" on a certificate. Furthermore, the Annual Report Requirement is predicated upon possession of a certificate and not provision of service. PATS providers are

DOCUMENT NUMBER-DATE

09469 SEP 24 1991

FPSC-RECORDS/REPORTING

ORDER NO. 25109
DOCKET NO. 910222-TC
PAGE 2

obligated to file the Annual Report because they have the authority to provide service.

E D L has set forth no legal or factual argument sufficient to justify setting aside the proposed fine. In essence, E D L's response is a default, an admission of the facts alleged in Order No. 24503 and a waiver of the right to a hearing.


Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that E D L, Inc. d/b/a El Floridita Restaurant shall, within 30 days, pay the \$250 fine proposed in Order No. 24503 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 2218. It is further

ORDERED that if E D L, Inc. d/b/a El Floridita Restaurant 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 E D L, Inc. d/b/a El Floridita Restaurant fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 2218 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

ORDER NO. 25109
DOCKET NO. 910222-TC
PAGE 3

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.

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.