

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910201-TC
proceedings against CMR GROUP, INC.)	ORDER NO. 25111
for violation of Rule 25-24.520,)	ISSUED: 9/24/91
Annual Report Requirement.)	
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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:

CMR Group, Inc. (CMR or the Company) has been a certificated pay telephone service (PATS) provider since January 10, 1989. As a certificated PATS provider, CMR is subject to our jurisdiction.

On May 7, 1991, we issued Order No. 24493 requiring CMR 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. 24493 also provided that if CMR elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24493 provided that if CMR failed to file a timely response, its certificate would be canceled and this docket closed.

On May 13, 1991, CMR filed a response to Order No. 24493. According to CMR's response, the Company was unable to file its 1990 Annual Report because it had changed its name and mailing address. CMR's response also evidences confusion between the Annual Report Requirement and the Regulatory Assessment Fee Requirement. CMR argued that it had collected no revenue for fiscal year 1990 and had therefore been less than diligent in completing the report, but had done so as evidenced by a completed Regulatory Assessment Fee form.

We would note that Rule 25-24.520(1)(a)(b), Florida Administrative Code, requires that a certificated PATS provider notify the Division of Communications of any name change or address

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change within 10 days of such change. It would be inappropriate to permit violation of one rule to be a defense to violation of another rule.

We would further note that the Annual Report Requirement is predicated on possession of a PATS certificate and not on collection of any revenues. Finally, confusion between the Annual Report Requirement and the Regulatory Assessment Fee is not adequate cause to avoid the proposed fine. PATS providers are on notice of both requirements by completion of the application process.

CMR's response fails to provide us with any legal or factual argument sufficient to set aside the proposed fine. Essentially, CMR's response is a default and a waiver of the right to a formal hearing.

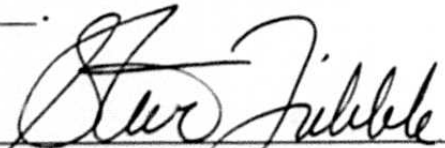
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that CMR Group, Inc. shall, within 30 days, pay the \$250 fine proposed in Order No. 24493 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 2216. It is further

ORDERED that if CMR Group, 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 CMR Group, Inc. fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 2216 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

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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.