

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910411-TC
proceedings against ASTRO SKATING)	ORDER NO. 25117
CENTER for violation of Rule)	ISSUED: 9/24/91
25-24.520, 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:

Astro Skating Center (Astro or the Company) has been a certificated pay telephone service (PATS) provider since February 13, 1990. As a certificated PATS provider, Astro is subject to our jurisdiction.

On May 13, 1991, we issued Order No. 24522 requiring Astro 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. 24522 also provided that if Astro elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24522 provided that if Astro failed to file a timely response, its certificate would be canceled and this docket closed.

On June 3, 1991, Astro filed a response to Order No. 24522. In its response, Astro indicated that it had lost its Annual Report. Astro also indicated that it had always been prompt with all previous filings of Annual Reports and Regulatory Assessment Fees. Finally, Astro indicated that its revenues for PATS operations were extremely limited. The Company also included a 1990 Annual Report.

We find nothing in Astro's response sufficient to cause us to set aside the proposed fine. While past compliance with our rules is commendable, it is also required. Past compliance does not mitigate a current violation. Limited economic viability is also

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irrelevant. The Annual Report Requirement is predicated on possession of the PATS certificate and not on profitability.

Finally, we have ruled that timeliness is an essential element of the Annual Report Requirement. A late-filed report alone is inadequate as a remedy for violation of Rule 25-24.520.

Astro's response fails to make any legal or factual argument sufficient to set aside the fine proposed in Order No. 24522. Essentially, Astro's response is an admission of the facts, a default and a waiver of the right to a formal hearing.

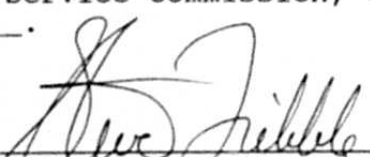
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Astro Skating Center shall, within 30 days, pay the \$250 fine proposed in Order No. 24522 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 2429. It is further

ORDERED that if Astro Skating Center 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 Astro Skating Center fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 2429 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.