

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Cancellation by Florida) DOCKET NO. 951220-TC
Public Service Commission of Pay) ORDER NO. PSC-95-1489-FOF-TC
Telephone Certificate No. 3787) ISSUED: November 30, 1995
issued to Steven Floyd Grooms)
for violation of Rules 25-)
24.515, F.A.C., Pay Telephone)
Service, and 25-4.0161,)
Regulatory Assessment Fees.)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER TO SHOW CAUSE

BY THE COMMISSION:

I. Background

Steven Floyd Grooms holds Certificate of Public Convenience and Necessity No. 3787 to provide pay telephone service. On May 31, 1995, a consumer contacted our staff regarding two pay telephones located in Jacksonville. The consumer stated that no company name was posted on the pay telephones. Our staff used local exchange company records to identify the pay telephone provider as Mr. Grooms, and wrote him regarding the apparent violations of Rule 25-24.515, Florida Administrative Code.

Mr. Grooms responded on June 12, 1995 that the name had been posted on each pay telephone. Our staff then reported to the consumer that the matter had been resolved. On June 19, 1995, the consumer contacted staff and stated that there was still no provider name posted on either pay telephone.

Due to this conflicting information, a staff engineer was sent to evaluate the pay telephones in question. On June 27, 1995, staff evaluated six pay telephones known to belong to Mr. Grooms. Our evaluations revealed numerous violations of the service standards in Rule 25-24.515, Florida Administrative Code. On July

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11, 1995, staff sent a letter to Mr. Grooms reporting the results of our evaluation and requesting a response detailing corrective action. Mr. Grooms responded on August 14, 1995.

During this investigation, we learned that Mr. Grooms was also delinquent on his regulatory assessment fee payments. Failure to pay regulatory assessment fees and file the corresponding forms is a violation of Rule 25-4.0161, Florida Administrative Code. The numerous apparent violations of the pay telephone service rules coupled with the failure to pay regulatory assessment fees makes this Order appropriate. The violations we found at each pay telephone and Mr. Grooms' response to our staff inquiries are explained below.

II. 904-241-8095, 1316 Beach Boulevard, Jacksonville Beach

Our evaluation showed this pay telephone in violation of Rule 25-24.515(5), Florida Administrative Code, for failure to post the name of the certificate holder, failure to post the address of the party responsible for repairs and refunds, failure to post clear and accurate dialing instructions, and failure to post or provide a toll-free telephone number of the party responsible for repairs and refunds. This pay telephone did not provide equal access to long distance companies as required by Rule 25-24.515(6), Florida Administrative Code or provide direct service to the local exchange company operator as required by Rule 25-24.515(7), Florida Administrative Code. A telephone directory was not provided at this pay telephone as required by Rule 25-24.515(12), Florida Administrative Code.

III. 904-241-8821, 100 1st Street, Neptune Beach

Our evaluation showed this pay telephone in violation of Rule 25-24.515(5), Florida Administrative Code, for failure to post the address of the pay telephone location, failure to post the name of the certificate holder, failure to post the address of the party responsible for repairs and refunds, failure to post clear and accurate dialing instructions, and failure to post or provide a toll-free telephone number of the party responsible for repairs and refunds. This pay telephone did not provide direct service to the local exchange company operator as required by Rule 25-24.515(7), Florida Administrative Code, or have a telephone directory as required by Rule 25-24.515(12), Florida Administrative Code.

refunds. This pay telephone did not provide direct service to the local exchange company operator as required by Rule 25-24.515(7), Florida Administrative Code, or have a telephone directory as required by Rule 25-24.515(12), Florida Administrative Code.

VII. Mr. Grooms' Response

On August 14, 1995, Mr. Grooms responded to our staff's inquiry about these apparent violations. Mr. Grooms indicated that pay telephones addressed in Sections II, III, and IV of this Order had been transferred to another provider and that the pay telephones addressed in Sections V and VI would be removed by August 15, 1995.

On August 22, 1995, our staff asked Southern Bell to provide information regarding the transfers. The company stated that a transfer to Mark Ridley was pending on three of the pay telephones. However, Mr. Grooms was still responsible for insuring that the three pay telephones were in compliance with Commission rules. Removing a pay telephone or promising to correct violations does not negate the violations.

VII. Regulatory Assessment Fees

According to our Division of Administration's Bureau of Fiscal Services, Mr. Grooms has failed to pay any regulatory assessment fees since becoming certified on June 24, 1994. Rule 25-4.0161, Florida Administrative Code, requires all pay telephone providers to pay a regulatory assessment fee in the amount of .15 of one percent of its gross operating revenues derived from intrastate business, and at least \$50 per year. Under the Rule, regulatory assessment fees and the applicable regulatory assessment fee return form are due each January 30 for the preceding period or any part of the period from July 1 until December 31, and on July 30 for the preceding period or any part of the period from January 1 until June 30.

According to the Division of Administration's records, Mr. Grooms had not paid any regulatory assessment fees for the period ending December 31, 1994 nor returned the forms for the period ending June 30, 1995. To date, no regulatory assessment fee form has been returned nor has any fee been paid.

Therefore, we believe that a fine should be imposed or certificate number 3787 should be cancelled due to Mr. Groom's failure to pay regulatory assessment fees as required by Rule 25-

4.0161, Florida Administrative Code. In previous dockets, we have imposed a \$250 fine on pay telephone providers who were delinquent in paying their regulatory assessment fees.

VIII. Conclusion

For the apparent violations listed in Sections II through VI of this Order, we find that Steven Floyd Grooms should be ordered to show cause why a fine should not be imposed or Certificate No. 3787 should not be cancelled. For failure to comply with Rule 25-4.0161, Florida Administrative Code, we find that Steven Floyd Grooms should be ordered to show cause why a \$250 fine should not be imposed or Certificate No. 3787 should not be cancelled. Mr. Grooms must respond, in writing, to the allegations set forth in this show cause order within 21 days of the issuance of the order. Mr. Grooms' response must contain specific allegations of facts and law. If Mr. Grooms fails to respond, such failure shall be deemed an admission of all facts contained herein, pursuant to Rule 25-22.037(3), Florida Administrative Code, and a waiver of his right to a hearing.

It is, therefore,

ORDERED by the Florida Public Service Commission that Steven Floyd Grooms show cause why a fine should not be imposed or Certificate No. 3787 should not be cancelled for the apparent violations of pay telephone rules as described in Sections II through VI of this Order. It is further

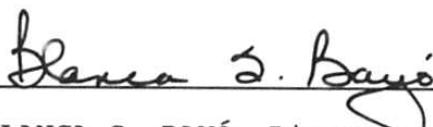
ORDERED that Steven Floyd Grooms show cause why a \$250 fine should not be imposed or Certificate No. 3787 should not be cancelled for failure to comply with Rule 25-4.0161, Florida Administrative Code, as described in Section VII of this Order. It is further

ORDERED that Steven Floyd Grooms must respond to this Order in writing by the date shown in the Notice Of Further Proceedings or Judicial Review section of this Order. It is further

ORDERED that if Steven Floyd Grooms fails to respond to this Order, such failure constitutes an admission to all facts contained herein and a waiver of a right to a hearing.

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By ORDER of the Florida Public Service Commission, this 30th
day of November, 1995.



BLANCA S. BAYÓ, 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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition 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 December 20, 1995.

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 pursuant to Rule 25-22.037(3), Florida Administrative

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Code, and a default pursuant to Rule 25-22.037(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.