

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against A. CoinPhone Services, Inc. for apparent violation of Rule 25-24.515, F.A.C., Pay Telephone Service.

DOCKET NO. 990627-TC
ORDER NO. PSC-99-1231-SC-TC
ISSUED: June 22, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER TO SHOW CAUSE

BY THE COMMISSION:

A. CoinPhone Services, Inc. (CoinPhone) currently holds Certificate of Public Convenience and Necessity No. 4954, issued by this Commission on October 15, 1996, authorizing the provision of pay telephone service. On January 29, 1999, the 1998 regulatory assessment fee return of CoinPhone reported \$1,491 in gross intrastate revenues and 20 pay telephones in operation.

On February 25, 1999, our staff performed a routine service evaluation on a pay telephone station operated by A. CoinPhone Services, Inc. On April 9, 1999, our staff received a Service Violation Correction Form from CoinPhone signifying that all apparent violations were corrected.

On April 22, 1999, our staff reevaluated the pay telephone station. Although CoinPhone reported that all violations had been corrected, the table provided as Attachment A, incorporated herein by reference, depicts the apparent rule violations that were the same violations observed during the initial evaluation.

By Section 364.285, Florida Statutes, we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$25,000 per day for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of this Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the

DOCUMENT NUMBER-DATE

07517 JUN 22 99

FPSC-RECORDS/REPORTING

ORDER NO. PSC-99-1231-SC-TC
DOCKET NO. 990627-TC
PAGE 2

Commission's rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

We believe that CoinPhone's conduct in providing pay telephone services in apparent violation of Commission Rule 25-24.515, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL titled In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as CoinPhone's conduct at issue here, would meet the standard for a "willful violation."

Accordingly, CoinPhone is hereby ordered to show cause in writing within 21 days of the date of this Order why CoinPhone should not have Certificate No. 4954 canceled or be fined \$400 for apparent violation of Rule 25-24.515, Florida Administrative Code. CoinPhone's response must contain specific allegations of fact or law.

If A. CoinPhone Services, Inc. timely responds to this show cause order, this docket shall remain open pending resolution of the show cause proceeding. If CoinPhone fails to respond to this show cause order, and the fine is not paid within five business days after the expiration of the show cause response period, certificate number 4954 shall be canceled and this docket closed. If the fine is timely paid, it will be remitted by this Commission to the Office of the Comptroller for deposit in the General Revenue Fund pursuant to Section 364.285(1), Florida Statutes, and this docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that A. CoinPhone Services, Inc. shall show cause in writing within 21 days of the date of this Order why it should not be fined \$400 for apparent violation of Rule 25-24.515, Florida Administrative Code. It is further

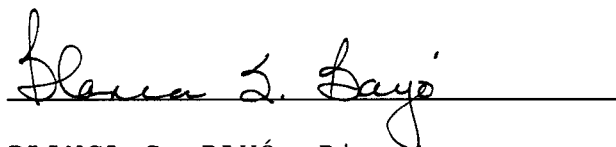
ORDER NO. PSC-99-1231-SC-TC
DOCKET NO. 990627-TC
PAGE 3

ORDERED that any response to this Order to Show Cause filed by A. CoinPhone Services, Inc. shall contain specific allegations of fact and law. It is further

ORDERED that failure to respond to this Order to Show Cause in the manner and by the date set forth in the "Notice of Further Proceedings or Judicial Review," attached hereto, shall constitute an admission of the violations described in the body of this Order, waiver of right to a hearing, and will result in the automatic assessment of the \$400 fine. It is further

ORDERED that in the event A. CoinPhone Services, Inc. fails to respond to this Order and the fine is not received within five business days after the expiration of the show cause response period, certificate number 4954 shall be canceled and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd day of June, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JAM

ORDER NO. PSC-99-1231-SC-TC
DOCKET NO. 990627-TC
PAGE 4

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response 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 July 13, 1999.

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 and a default pursuant to Rule 28-106.111(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.

ORDER NO. PSC-99-1231-SC-TC
DOCKET NO. 990627-TC
PAGE 5

ATTACHMENT A

Pay Telephone Station Number	Rule 25-24.515(9)(a), Florida Administrative Code			
	Address of Responsible Party for Repairs and Refunds Not Displayed	Telephone Number Not Displayed	Location Address Not Displayed	Name of Provider Not Displayed
305-350-9976	X	X	X	X

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Requisition for Photocopying and Mailing

Number of Originals 5 Date 6/21/11 Copies Per Original 19
Requested By [Signature]

Item Presented _____
Agenda For (Date) _____ Order No. 99-1231 In Docket No. 990627
Notice of _____ For (Date) _____ In Docket No. _____
Other _____

Special Handling Instructions

Distribution/Mailing		Distribution/Mailing	
Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>19</u>	<u>Commission Offices</u>	<u>--</u>	_____
<u>(1)</u>	<u>Docket Mailing List - Mailed</u>		_____
	<u>Docket Mailing List - Faxed</u>		_____

Note: Items must be mailed and/or returned within one working day after issue unless specified here:

Print Shop Verification
Job Number 221 Verified By [Signature]
Date and Time Completed 6/24 Job Checked For Correctness and Quality (Initial) [Initials]

Mail Room Verification
Date Mailed 7 Verified By [Signature]

RECEIVED-FPSC

M E M O R A N D U M

JUN 21 PM 3:54

June 21, 1999

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (MILLER) *Jam CB*

RE: DOCKET NO. 990627-TC - INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST A. COINPHONE SERVICES, INC. FOR APPARENT VIOLATION OF RULE 25-24.515, F.A.C., PAY TELEPHONE SERVICE.

99-1230-SC

Attached is an ORDER TO SHOW CAUSE, with attachments, to be issued in the above-referenced docket. (Number of pages in order - 5)

JAM/anr
Attachment
cc: Division of Communications
I: 990627.jam

See 1, 2 ✓

ATTACHMENT(S) NOT ON-LINE

*1 Certified
b22*