

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910336-TC
proceedings against RED COCONUT)	ORDER NO. 25142
R. V. PARK for violation of Rule)	ISSUED: 9/30/91
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:

Red Coconut R. V. Park (Red Coconut or the Company) has been a certificated pay telephone service (PATS) provider since May 30, 1986. As a certificated PATS provider, Red Coconut is subject to our jurisdiction.

On May 13, 1991, we issued Order No. 24521 requiring Red Coconut to show cause why it should not be fined \$250 for failure to file an Annual Report for 1991 as required by Rule 25-24.520, Florida Administrative Code. Order No. 24521 also provided that if Red Coconut elected to cancel its PATS certificate, no fine would be imposed. Finally, Order No. 24521 provided that if Red Coconut failed to file a timely response, its certificate would be canceled and this docket closed.

On May 29, 1991, Red Coconut filed a response to Order No. 24521. Red Coconut asserted that, based on conversations in February, 1991 with our Staff, it understood payment of the Regulatory Assessment Fee (RAF) to be sufficient to maintain its certificate. Red Coconut did file an Annual Report on May 28, 1991.

We find Red Coconut's response insufficient as a defense. We have often held that the RAF and the Annual Report are two distinct requirements, and satisfaction of one requirement does not satisfy the other. We also find that because the alleged conversation with Staff took place after the filing deadline, Red Coconut cannot rely

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on the assumption arising from that conversation as a defense. Finally, we find that timeliness is an essential element of the Annual Requirement and that a late-filed report does not satisfy the requirement.

Red Coconut's response makes no legal or factual argument sufficient to justify setting aside the \$250 proposed fine. Essentially, Red Coconut's response acts as a default and waiver of the right to a hearing.

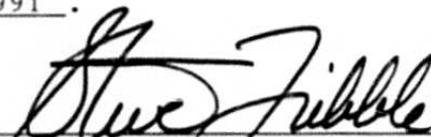
Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Red Coconut R. V. Park shall, within 30 days, pay the \$250 fine proposed in Order No. 24521 or, in the alternative, voluntarily cancel its Certificate of Public Convenience and Necessity No. 913. It is further

ORDERED that if Red Coconut R. V. Park 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 Red Coconut R. V. Park fails to respond to this Order, its Certificate of Public Convenience and Necessity No. 913 shall be canceled and this docket closed.

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