

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause ) DOCKET NO. 950352-TC  
proceedings against Brian R. ) ORDER NO. PSC-96-0173-FOF-TC  
Albury for failure to comply ) ISSUED: February 7, 1996  
with Rule 25-24.515, F.A.C, Pay )  
Telephone Service Standards. )  
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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

FINAL ORDER IMPOSING FINE OR CANCELLING CERTIFICATE

BY THE COMMISSION:

By Order PSC-95-0625-FOF-TC, issued on May 23, 1995, we ordered Brian R. Albury, holder of Certificate No. 2909, to show cause why he should not be fined or have his certificate cancelled for violations identified at nine of his pay telephones. Mr. Albury timely responded to the Order by letter dated May 31, 1995. Mr. Albury admitted the allegations of the show cause order and did not request a hearing.

Between July 7, 1995 and July 17, 1995, our staff re-evaluated the nine pay telephones named in the show cause Order. The evaluations revealed that the majority of the corrections had been made but that inadequate compliance with the handicapped access standards remained a problem at three of the pay telephones and other violations were still present.

Because Mr. Albury's response indicated that the violations had been corrected, yet our staff's re-evaluation indicated violations still existed, we sought an explanation from Mr. Albury. In telephone conversations with Mr. Albury, he indicated that most of the repairs were complete and he wished to propose a settlement. On November 22, 1995, Mr. Albury filed a letter asking the Commission not to impose any penalty. On December 21, 1995, Mr. Albury filed another letter indicating the last pay telephone had been repaired.

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Mr. Albury has made an effort to correct the violations. In conversations with our staff, he has indicated that noncompliant pay telephones have been removed or corrections have been made. In his response to the show cause order, Mr. Albury did not deny any of the allegations nor request a hearing. Accordingly, we find that Mr. Albury violated 25-24.515, Florida Administrative Code, and impose a fine for the past violations. Mr. Albury's recent correspondence asks that the Commission not impose a fine or any other penalty, and to work with the company to "encourage growth and perfection." We believe a penalty is appropriate in this case for three reasons. First, this is not Mr. Albury's first violation of Commission Rules. Mr. Albury was fined \$500 previously by Order No. PSC-94-0723-FOF-TC, issued June 13, 1994, for failure to timely respond to staff inquiries. Second, there were violations at nine pay telephones, not just the one that started this investigation. Finally, the pay telephones were not promptly repaired. Mr. Albury reported in his May 31 response that repairs had been made or were nearly complete. Our inspection in July, two months later, showed that some violations still remained. It was not until December that Mr. Albury indicated each of his phones is in compliance.

We choose not to cancel Mr. Albury's certificate at this time. Although the violations are serious, Mr. Albury has timely responded to Commission Orders and staff inquiries. Mr. Albury says the violations are now corrected or will be, once new telephone directories are in place. Therefore, we believe a fine, rather than cancellation, is appropriate. Fines for similar violations in previous dockets have ranged from \$500 to \$50,400. In this case, we order Mr. Albury pay a \$1,000 fine and order that Mr. Albury certify, in writing, that all his pay telephones are in compliance within 30 days of the date the Order is issued. If Mr. Albury does not comply with this Order, Certificate No. 2909 will be cancelled without further Commission action and this docket will be closed.

It is, therefore,

ORDERED by the Florida Public Service Commission that Brian R. Albury pay a \$1,000 fine and certify, in writing, that all of his pay telephones are in compliance with Rule 25-24.515, Florida Administrative Code, within 30 days of the date this Order is issued. It is further

ORDERED that if Mr. Albury complies with this Order, this docket shall be closed. It is further

ORDERED if Mr. Albury does not comply with this Order, Certificate No. 2909 shall be cancelled and this docket closed.

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By ORDER of the Florida Public Service Commission, this 7th  
day of February, 1996.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: *Kay Hagan*  
Chief, Bureau of Records

( S E A L )

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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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 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.