

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against Maria E. Delgado d/b/a Global Communication for apparent violation of Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

DOCKET NO. 000482-TC
ORDER NO. PSC-00-1180-SC-TC
ISSUED: June 30, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

ORDER TO SHOW CAUSE AND REQUIRING
WRITTEN RESPONSE TO STAFF QUESTIONS

BY THE COMMISSION:

I. Background

On November 4, 1994, Maria E. Delgado d/b/a Global Communication (Global), obtained Florida Public Service Commission PATS Certificate No. 3874. On January 19, 2000, our staff evaluated pay telephone number (813) 254-7431 in Tampa, and on January 27, 2000, our staff mailed the company a letter that informed it of the violations found in Tampa, and requesting a response by February 11, 2000. Our staff evaluated pay telephone number (727) 847-3794 in New Port Richey on January 29, 2000, and on February 2, 2000, staff informed the company by mail of the violations found at that location, and requested a response by February 22, 2000. Neither request received a response by February 22, 2000, and on that date, our staff mailed the company a certified letter, requesting a response by March 8, 2000.

On February 25, 2000, Global signed for and received the certified letter. Between March 16, 2000 and April 17, 2000, staff called the telephone number listed in the Master Commission

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Directory for the company four times during this period and left a message for a return call. No return calls were received.

II. Apparent Violation

Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries, provides the following:

The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the Commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

Staff wrote the company on January 27, February 2, and February 22, 2000 (certified letter). Each letter requested a response within 15 days. In addition to the correspondence, staff called the company four times, March 16, March 27, April 4 and April 17, 2000. Although the company has had ample opportunity, as of April 20, the company has not responded to staff's inquiries.

The company has not complied with the requirements of this rule despite staff's efforts to contact it by mail and by telephone. In this regard, it appears that Global is in violation of Rule 25-4.043, Florida Administrative Code.

III. Show Cause

Pursuant to 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 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 the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of the 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).

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, we nevertheless found it appropriate to order it to show cause why it should not be fined,

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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 Global's conduct at issue here, would meet the standard for a "willful violation." We find that Global's conduct in failing to respond to our staff's inquiries in apparent violation of Commission Rule 25-4.043, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes.

Accordingly, Global shall show cause in writing within 21 days of the issuance of this Order why it should not have Certificate Number 3874 canceled or be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. Global's response shall contain specific allegations of fact and law. If Global fails to respond to this Order to Show Cause, and the fines are not paid within 10 business days after the 21-day show cause period, the facts shall be deemed admitted, the right to a hearing shall be deemed waived, and Certificate Number 3874 shall be canceled. If Global timely responds to this Order, this docket shall remain open pending resolution of the show cause proceeding.

Any fines received by the Commission shall be forwarded to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes.

Therefore, it is

ORDERED by the Florida Public Service Commission that Maria E. Delgado d/b/a Global Communication shall show cause in writing within 21 days of the issuance of this Order why it should not have Certificate Number 3874 canceled or be fined \$10,000 for apparent violation of Rule 25-4.043, Florida Administrative Code, Response to Commission Staff Inquiries. It is further

ORDERED that any response to this Order to Show Cause shall contain specific allegations of fact or law and shall identify the company name and the docket number. It is further

ORDERED that if Maria E. Delgado d/b/a Global Communication fails to respond to this Order to Show Cause, and the fines are not paid within 10 business days after the 21 day show cause period, Certificate Number 3874 shall be canceled. It is further

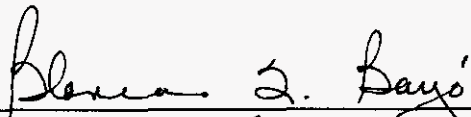
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ORDERED that if Maria E. Delgado d/b/a Global Communication timely responds to this Order, this docket shall remain open pending resolution of the show cause proceeding. It is further

ORDERED that any fines received by the Commission shall be forwarded to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. It is further

ORDERED that if Maria E. Delgado d/b/a Global Communication pays the fine, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 30th day of June, 2000.



ELANCA 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 120.569(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 21, 2000.

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.