

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause)	DOCKET NO. 910673-TI
proceedings against UNICOM GROUP, INC.)	ORDER NO. 24972
for violation of Rule 25-24.470, F.A.C.,)	ISSUED: 8/26/91
Certificate of Public Necessity and)	
Convenience Required)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL MCK. WILSON

ORDER INITIATING SHOW CAUSE PROCEEDINGS

BY THE COMMISSION:

Rule 25-24.470, Florida Administrative Code, provides in pertinent part:

(1) No person shall provide intrastate interexchange telephone service without first obtaining a certificate of public convenience and necessity from the Commission. Services may not be provided, nor may deposits or payment for services be collected, until the effective date of the certificate, if granted. . . .

In December 1990, the activities of Unicom Group, Inc. (Unicom) came to the attention of our Staff. The Hogan Company d/b/a Interwats had filed a complaint against Universal Communications Network (Universal) and Corporate Telemanagement Group (CTG) alleging that Universal, acting as CTG's agent, was improperly and without the customers' knowledge, transferring Hogan's customers to CTG. Universal was an entity established to obtain customers for Hogan. Unicom Group, Inc. was formed to obtain customers for CTG. Mr. Albert Mignone was the President of both Universal and Unicom, and both companies operated from the same address. The Hogan Company subsequently withdrew its complaint, and by Order No. 24833, issued July 19, 1991, the docket was closed. Universal is no longer operating; however, Unicom continues to operate without an interexchange carrier (IXC) certificate.

Unicom asserts that it is operating solely as a marketing company. We disagree. Unicom offers telecommunications services

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in its own name and with its own rates. Additionally, Unicom has stated that it is not an IXC because it does not process the traffic or have equipment. We do not distinguish between a facilities-based carrier and a company that resells another carrier's capacity.

We believe that Unicom is operating as an IXC; and therefore, should have obtained a certificate of public convenience and necessity from this Commission. Our staff informed Unicom that it should apply for a certificate, but the Company refused to do so. Pursuant to Section 364.285, Florida Statutes, this Commission has the power to impose upon any entity subject to our jurisdiction, which has refused to comply with or violated any lawful rule, commission order, or statute, a penalty for each offense up to \$25,000. Each day that such refusal or violation continues constitutes a separate offense.

Accordingly, we find that Unicom Group, Inc. shall show cause, in writing, why it should not be fined for violating Rule 25-24.470.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Unicom Group, Inc. shall show cause, in writing, why a fine consistent with that permitted by law should not be assessed against it for its failure to comply with Rule 25-24.270, Florida Administrative Code. It is further

ORDERED that any response filed by Unicom Group, Inc. shall contain specific statements of law and fact. It is further

ORDERED that upon receipt of a response, and upon the company's request, further proceedings may be scheduled by the Commission, at which time the company would have an opportunity to contest the violations alleged herein. It is further

ORDERED that the company's failure to file a written response within the prescribed time period set forth below, will constitute an admission of noncompliance and a waiver of any right to a hearing. It is further

ORDERED that this docket remain open pending resolution of this proceeding.

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By ORDER of the Florida Public Service Commission, this 26th
day of AUGUST, 1991.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

PAK

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, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on 9/16/91.

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 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.