

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver for Rules)	DOCKET NO. 911122-TC
25-24.515(3), (4) and (6), F.A.C., and to)	
provide specialized pay telephone)	ORDER NO. 25674
services to inmates of correctional)	
institutions by PUBLIC COMMUNICATIONS)	ISSUED: 2/3/92
ASSOCIATES, LTD., INC.)	
)	

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING IN PART PETITION FOR
WAIVER OF RULE 25-24.515(3), (4), (6),
FLORIDA ADMINISTRATIVE CODE, IN CONFINEMENT INSTITUTIONS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Public Communications Associates Ltd., Inc. (PCA) has been a certificated pay telephone service (PATS) provider since November 13, 1991. As a certificated PATS provider, PCA is subject to our jurisdiction.

On November 12, 1991, PCA filed a petition requesting a waiver of Rules 25-24.515(3), (4) and (6), Florida Administrative Code. In the petition, PCA indicated that it intended to operate pay telephones in confinement facilities such as prisons and jails, and the Company wished to restrict access to 911, local directory assistance, credit card and coin calls, access to all locally available interexchange carriers, repair service, and that call would be of limited duration.

We have previously considered the issues raised by PCA in Docket No. 860723-TP. Our decisions in that docket were memorialized in order No. 24101. In that Order, we determined that the restrictions were appropriate in nonlocal exchange company PATS providers operating in confinement facilities.

DOCUMENT NUMBER-DATE

01198 FEB -3 1992

FPSC-RECORDS/REPORTING

ORDER NO. 25674
DOCKET NO. 911122-TC
PAGE 2

On February 14, 1991, we issued Order No. 24101 memorializing our decisions rendered in Docket No. 860723-TP - Pay Telephone Docket. One of the issues addressed in this docket concerned the appropriate operational and rate restrictions to apply in confinement facilities. The Commission determined the following restrictions as appropriate:

- A. NPATS providers may deny access to 911 and 411 calls.
- B. NPATS providers may deny access to all locally available interexchange carriers.
- C. A limited time duration of fifteen (15) minutes may be placed on all calls. However, notice of disconnect must be made prior to termination of call.
- D. NPATS providers who wish to utilize the debit card phone in confinement facilities may charge no more than \$1.00 for local calls.
- E. NPATS may charge no more than the appropriate AT&T time-of-day rates, plus operator charges.

We are currently amending our Rules in order to authorize these restrictions on an industry-wide basis. Until these amendments are complete, waivers of some of our current rules will be necessary on a case-by-case basis.

In the instant case, PCA has requested a waiver of Rule 25-24.515(3), (4) and (6). The subsections provide:

25-24.515 Pay Telephone Service

- (3) Each telephone station shall permit access to the universal telephone number "911", where operable, without requiring the use of a coin, paper money or a credit card. Where such number is not operable, the stations shall permit access to a local exchange company toll operator under the same conditions.

ORDER NO. 25674
DOCKET NO. 911122-TC
PAGE 3

- (4) Each telephone station shall, without charge, permit access to local directory assistance and the telephone number of any person responsible for repairs or refunds but may provide access by coin return. Any long distance directory assistance charges applied to the pay telephone service company may be passed on to the customer.
- (6) Each telephone station which provides access to any interexchange company must provide access to all locally available interexchange companies.

Such restrictions are desirable because of problems with harassing calls and fraudulent use of telephone services common to prison pay telephone stations. Waiver of these requirements is consistent with our findings in Docket No. 860723-TP, our contemplated rules, and our actions in similar rule waiver dockets.

PCA also indicated in its petition that it wished to handle all calls on an automated basis. Furthermore, PCA indicated that success of the system to be implemented would be dependent upon control over all calls made or attempted by inmates; therefore, interLATA, intraLATA and local would be processed through the automated system. In response to further inquiry, PCA indicated that "if the call is an interLATA call, it is sent to a certified interexchange carrier for completion (transmission). If the call is local or intraLATA, it is sent to the local exchange carrier serving the territory for call completion (transmission)." Utilizing the system proposed by PCA, 0+ calls would be sent to the LEC as a 1+ and operator service charges would be collected by PCA. However, by Order No. 24101 we held that 0+ local and 0+ intraLATA toll traffic should be handled by the serving LEC operators, not just transmission of the call. PCA has not established sufficient public benefit for waiving this requirement. Because the burden is on the petitioner in a request for waiver of a rule, we are compelled to deny this portion of PCA's petition. Therefore, we find PCA must route all 0+ local and intraLATA toll calls to the local exchange company for operator assistance. This is consistent with our previous decisions and our prospective rules.

PCA also requested authority to block 0- calls from its pay telephones operated in confinement facilities. Allowing such blocking is consistent with our decision in Order No. 23506.

ORDER NO. 25674
DOCKET NO. 911122-TC
PAGE 4

Accordingly, we find it appropriate to approve this element of PCA's petition

We would note that all rule waivers and restrictive capabilities discussed in this Order are to be limited to confinement facilities. Any pay telephone operated by PCA in non-confinement facility locations shall be subject to the usual PATS service standards. Furthermore, because inmates of such facilities are limited to one interexchange carrier, PCA may not charge or allow the IXC servicing its instruments in confinement facilities to charge more than the ATT-C DDD time-of-day rate plus operator charges for interLATA calls. Again these limitations on PCA's petition are consistent with our previous actions in similar rule waiver dockets and with the rules currently being promulgated.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that pursuant to the petition filed by Public Communications Associates, Ltd., Inc., requesting a waiver of Rule 25-24.515(3), (4), (6), and (11), Florida Administrative Code, is hereby approved in part and denied in part as outlined in the body of this Order. It is further

ORDERED that Public Communications Associates, Ltd., Inc.'s request to send 0+ local and intraLATA 0+calls to the local exchange company as 1+ calls and collect with an operator service charge to be collected by the Company is hereby denied. It is further

ORDERED that consistent with our previous decisions, all 0+ local and intraLATA toll calls must be routed to the local exchange company for operator service. It is further

ORDERED that because inmates will be limited to one interexchange carrier, PCA should not be allowed to charge over the ATT-C DDD time-of-day rates plus operator service charges for interLATA calls.

ORDERED that these exceptions shall be limited to pay telephone instruments located in confinement facilities. It is further

ORDERED that any party adversely affected by this Order may respond in writing pursuant to the requirements set forth below. It is further

ORDER NO. 25674
DOCKET NO. 911122-TC
PAGE 5

ORDERED that if no protest is filed pursuant to the requirements below, this Order shall become final and this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 3rd day of FEBRUARY, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: Kay Jeyan
Chief Bureau of Records

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. 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 25-22.029(4), 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 2/24/92.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

ORDER NO. 25674
DOCKET NO. 911122-TC
PAGE 6

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an 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. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.