

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for) DOCKET NO. 920661-TC
certificate to provide pay) ORDER NO. PSC-92-0717-FOF-TC
telephone service by OPUS) ISSUED: 07/28/92
TELECOM CORRECTIONAL)
SERVICES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING PAY TELEPHONE CERTIFICATE

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 substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

The company listed in the caption of this Order filed an application for a certificate to provide pay telephone service (PATS). This application was filed pursuant to Section 364.3375, Florida Statutes (1990), which provides that no person can provide pay telephone service without first obtaining from this Commission a certificate of public convenience and necessity to provide such service. Section 364.335 provides for the application for a certificate of public convenience and necessity and sets forth guidelines for the application process. The application requirements are further defined in Rule 25-24.511, Florida Administrative Code.

PATS providers are subject to the provisions of Rules 25-24.505 through 25-24.520, Florida Administrative Code, which govern the operation of PATS.

On February 14, 1991, following the decisions rendered in PATS Docket No. 860723-TP, the Commission issued Order No. 24101. Appropriate operational and rate restrictions applicable in

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confinement facilities were addressed in that docket. The Commission determined the following restrictions as appropriate in such facilities:

- 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.

However, in order to authorize the above restrictions on an industry-wide basis, rule amendments are necessary. Until such rule amendments are complete, waivers of rules for the provision of pay telephones in confinement facilities must be handled on a case-by-case basis.

Opus has fulfilled all prescribed requirements for certification to provide pay telephone service; therefore, the Commission should approve the application for a certificate submitted by Opus Telecom Correctional Services, Inc. (Opus).

Opus plans to provide pay telephone service to municipal, county, and state confinement facilities in Florida. On June 29, 1992, Opus indicated that it would restrict 911, local directory assistance, and access to all locally available interexchange companies. Opus also indicated that the inmates will be dialing on a 1+ basis using the debit card phone. However, all local and intraLATA traffic will be routed to the serving local exchange company.

In order for Opus to provide this type of restricted phone service, a waiver of Commission Rule 25-24.515(3), (4), and (6) is necessary. Rule 25-24.515, Florida Administrative Code, states in pertinent part:

(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 station shall permit access to a local exchange company toll operator under the same conditions.

(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 locally available interexchange companies.

A waiver of Rule 25-24-515(3), (4), and (6), F.A.C., is necessary in order to provide the type of restricted telephone service outlined above. Such restrictions are desirable because of problems with harassing calls and fraudulent use of telephone services common to prison pay telephone stations. Such fraud is ultimately borne by the general public through higher telephone charges. Therefore, in order to implement a service which minimizes the risk of abuse and fraud from the prison population, the Commission believes a waiver of Rule 25-24.515(3), (4), and (5) is appropriate.

This approved waiver is not without limitations. This waiver should apply only to those stations placed in penal institutions for the express use by inmates. Additionally, since the inmates are restricted to one carrier, Opus is not allowed to charge or allow the IXC serving its PATS instruments in prisons to charge over the ATT-C DDD time-of-day rates plus operator charges for interLATA calls. These limitations are consistent with past Commission actions concerning pay telephones located in confinement facilities.

In reviewing the application of this company, we find that it contains the information required for certification as set forth in Sections 364.3375 and 364.335, as well as the Rules cited above. Based on the foregoing, we propose to grant the company listed in the caption of this Order a certificate to provide pay telephone

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service consistent with the conditions and requirements set forth in Rules 25-24.505 through 25-24.520, Florida Administrative Code. Additionally, the Commission finds it appropriate to approve Opus' request for waiver of Rule 25-24.515(3), (4), and (6), Florida Administrative Code, only for those telephones placed by Opus into penal institutions.

The docket listed in this Order will be closed following expiration of the period specified in this Order unless an appropriate petition for hearing, protesting a specific application, is filed by one whose substantial interests may or will be affected by this proposed agency action, as provided by Florida Administrative Code Rules 25-22.029 and 25-22.036(7)(a).

It is, therefore,

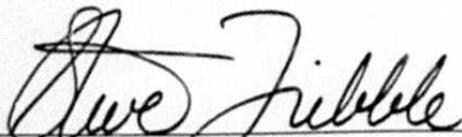
ORDERED by the Florida Public Service Commission that Opus Telecom Correctional Services, Inc. is hereby granted a certificate to provide public pay telephone service subject to the conditions stated in the body of this Order. It is further

ORDERED that waiver of Rule 25-24.515(3), (4), and (5), Florida Administrative Code, is hereby granted to the extent set forth in the body of this Order. 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

ORDERED that this docket shall be closed if no protest is filed in accordance with the requirement set forth below.

By ORDER of the Florida Public Service Commission this 28th day of July, 1992.



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.

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 August 18, 1992.

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.

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.