

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for) DOCKET NO. 920373-TC
Certificate to provide pay) ORDER NO. PSC-92-0815-FOF-TC
telephone service by VOCAL) ISSUED: 08/13/92
MOTION, INC.)
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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 DENYING 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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On April 20, 1992 Vocal Motion, Inc. (Vocal Motion) filed an application for a Certificate of Public Convenience and Necessity to provide pay telephone service. Vocal Motion is a cellular pay telephone service (C-PATS) provider and its application was in response to staff inquiries. In turn, staff's inquiries were motivated by consumer complaints.

In its application, Vocal Motion stated that it intended to permit access only to its presubscribed interexchange carriers. This is in conflict with Rule 25-4.076(5) Florida Administrative Code, which requires:

Each telephone station which provides access to any long distance company must provide access to all locally available long distance companies regardless of which form of access is available.

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Vocal Motion asserted that the special requirements of cellular pay telephone service necessitated limiting access to the presubscribed IXC. However Vocal Motion did not request a waiver of Rule 25-4.076(5) despite being advised by staff that such a waiver would be necessary if the company wished to block access to any locally available IXCs. While our staff is currently investigating cellular pay telephone service, at this time, we have no rules specific to C-PATS. Accordingly we find it appropriate to apply the rules applicable to conventional pay telephone service to C-PATS unless requested to do otherwise. Such a request for a rule waiver would need to demonstrate the public benefit of such a waiver. Vocal Motion has failed to request a waiver of Rule 25-4.076(5). The Company has simply asserted a need to limit access to IXCs and failed to demonstrate a public benefit for such a waiver. Accordingly, we find it appropriate to deny Vocal Motion's application.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application by Vocal Motion, Inc. for a certificate of Public Convenience and Necessity is hereby denied. It is further

ORDERED that any protest of this Order shall be filed pursuant to the requirements set forth below. It is further

ORDERED that if no protest is timely filed, this docket shall be closed at the end of the protest period below.

By ORDER of the Florida Public Service Commission, this 13th day of August, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

JKA

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 September 3, 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.