

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to)	DOCKET NO. 900852-TC
provide pay telephone service by)	ORDER NO. 24512
PAYPHONE SERVICES COMPANY, INC.)	ISSUED: 5/10/91
<hr/>		

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER

NOTICE OF PROPOSED AGENCY ACTIONORDER GRANTING 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.

Payphone Services Company, Inc. (Payphone Services) was first certificated on October 4, 1988. Pursuant to Order 23221 issued July 28, 1990, Payphone Services was canceled for failure to comply with Rule 25-24.520 - 1989 Annual Report Requirement, and for violation of Commission Rule 25-24.043 - Response Requirement.

On October 23, 1990, Payphone Services filed another application for certificate of public convenience and necessity.

On December 18, 1990, we elected to deny Payphone Services' application for a certificate of public convenience and necessity. PAA Order No. 23989 denying Payphone Services' certificate of public need and necessity was issued January 15, 1991. Payphone Services filed a protest of the PAA Order on February 9, 1991.

Since Payphone Services filed its protest of Order No. 23989, the Company has submitted an Offer of Settlement (Attachment 4). The terms of the settlement proposal are as follows:

DOCUMENT NUMBER-DATE

04612 MAY 10 1991

PAC-RECORDS/REPORTING

ORDER NO. 24512
DOCKET NO. 900852-TC
PAGE 2

1. Payphone Services proposes to pay a fine in the amount of \$250. This fine is substantially greater than the original \$100 fine proposed in Show Cause Order No. 23221. Payphone Services has chosen to increase the fine so that there would be no appearance of it being in a more favorable position for failing to have paid the original fine. Upon receipt of the fine, we would issue to Payphone Services a new certificate of public convenience and necessity.

2. To effect this settlement, we would issue its order acknowledging and accepting the proposal, and authorizing the staff to issue the certificate upon receipt of the fine from Payphone Services.

Payphone Services failed to comply with Order No. 23221 and its certificate was canceled as a result. However, Payphone Services recognizes the seriousness of its violations and is willing to pay a substantially increased fine.

A substantially increased fine is appropriate and the offer demonstrates Payphone Services' recognition of the gravity of its offenses. However, staff also finds it appropriate to require the officers and directors of Payphone Services sign an agreement containing the following covenants:

1. Future Annual Reports will be promptly and accurately filed.
2. Regulatory assessment fees will be promptly paid.
3. The officers and directors will have reviewed the rules regulating pay telephone service providers and agree to exercise all due diligence in complying with such rules.

Penalties and fines are generally imposed to insure compliance and not as punitive measures. We believe that if Payphone Services complies with the requirements set forth above, it will be in the public interest to grant it a certificate.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Payphone Services, Inc. be granted a certificate to provide pay telephone services. It is further

ORDER NO. 24512
DOCKET NO. 900852-TC
PAGE 3

ORDERED that Payphone Services, Inc. shall pay a \$250 fine within 30 days of the date of this Order. It is further

ORDERED that the officers and directors of Payphone Services, Inc. shall review the rules and regulations governing pay telephone services in Florida and agree in writing to exercise all due diligence in complying with such rules. It is further

ORDERED that any future failure to file an Annual Report or Regulatory Assessment Fee in a timely manner shall weigh heavily in favor of canceling Payphone Services, Inc.'s certificate. It is further

ORDERED that if no protest is received pursuant to the requirements set forth below, this docket shall be closed at the conclusion of the protest period.

By ORDER of the Florida Public Service Commission, this 10th day of MAY , 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: Kay Heppner
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.

ORDER NO. 24512
DOCKET NO. 900852-TC
PAGE 4

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 May 31, 1991.

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 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. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.