

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Show Cause) DOCKET NO. 931041-TC
Proceedings Against London) ORDER NO. PSC-94-0367-FOF-TC
Communications, Inc. for) ISSUED: March 30, 1994
Violation of Rules 25-24.515(6))
& (14), F.A.C., Pay Telephone)
Service Standards)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER IMPOSING ADMINISTRATIVE FINE

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 a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

London Communications, Inc. (London), the holder of Pay Telephone Certificate No. 2415, owns and operates approximately 250 pay telephones in the State of Florida. Beginning in May of 1992, Staff inspections of London's pay telephone stations uncovered a number of violations of this Commission's handicap access standards, as set forth in Rule 25-24.515(14), Florida Administrative Code. As these problems were discovered, Staff provided written notice thereof and, each time, requested that London respond within fifteen days of such notice, as required under Rule 25-4.043, Florida Administrative Code. On numerous occasions, London responded either late or not at all. Its responses, such as they were, usually stated that the violations either did not exist or had already been corrected. However, upon reinspection by Staff, a number of these pay telephones remained out of compliance with our handicap access standards.

DOCUMENT NUMBER-DATE
02980 MAR 30 1994
FPSC-RECORDS/REPORTING

By Order No. PSC-93-0534-FOF-TC, issued April 8, 1993, this Commission required London to show cause why it should not be fined \$2,000 for alleged violations of Rules 25-24.515(14) and 25-4.043, Florida Administrative Code. Order No. PSC-93-0534-FOF-TC also stated that London could respond to that order by paying the fine. London paid the fine on April 19, 1993, and the docket was closed.

HANDICAPPED ACCESS VIOLATIONS

In August and September of 1993, Staff again inspected several of London's pay telephone stations. One of these stations had a four-inch curb and no ramp. Another had a gap three inches wide and one and one-half inches deep between the base of the telephone base and the parking area. Both of these stations effectively denied access to the handicapped. Staff notified London of these violations in writing and strongly suggested that it correct all such similarly situated pay stations. London assured Staff that these particular stations would be corrected by October 30, 1993, and that it would step up its efforts to find and correct all such problems with its pay telephones.

At a service evaluation performed December 1, 1993, one of the pay telephones referenced above remained inaccessible to the handicapped. In addition, since October 30, 1993, Staff has discovered ten additional pay stations that deny access to the handicapped.

EAS CALLING CAPABILITIES

On September 13, 1993, Staff inspected two of London's pay telephones at a Sing Store located at 4394 Blountstown Highway, Tallahassee, Florida. Staff was unable to place a local call to the 643 central office prefix for Bristol, Florida. Telephone calls from Tallahassee to Bristol are supposed to be treated as local based upon a flat-rate, two-way, nonoptional extended area service plan between Leon and Liberty counties, as implemented by Order No. PSC-92-0194-FOF-TL, issued April 4, 1992.

After Staff notified London of this situation, London responded that it must have missed some prefixes in that area and that it would correct the problem by September 20, 1993. On September 28, 1993, Staff telephoned a Ms. Day at London, who indicated that the corrections had been made. On October 4, 1993, Staff inspected the same two pay telephones. One was out of service and the other still did not allow local calls to the 643 central office prefix, in violation of Order No. PSC-92-0194-FOF-

TL. According to London, Ms. Day did not intentionally mislead Staff, but was misinformed due to a miscommunication between its employees. We note, however, that misrepresentation of corrective measures was an issue in the prior show cause docket involving London.

BLOCKING ACCESS TO INTEREXCHANGE CARRIERS

Under Rule 25-24.515(6), Florida Administrative Code, pay telephone stations in equal access areas which provide access to any interexchange telecommunications service provider must provide coin free access to all locally available interexchange telecommunications service providers. Inspections over the past two years have revealed violations of this rule at four different pay stations. London's response correctly noted that one violation, in Quincy, was in a non-equal access area. While we are aware that 10XXX will not work in a non-equal access area, Rule 25-24.515(6) also requires that 00 route to AT&T in such areas. The Staff evaluator's form indicates that 00 routed, instead, to Telecom*USA. On two of the other telephones, Staff's test calls to both AT&T's and MCI's 10XXX access number elicited a recorded message that "it is not necessary to dial a carrier access code." On the fourth pay telephone, test calls to 10288+0 (AT&T's access code) went to Telecom*USA.

London denies intentionally blocking access to other carriers and maintains that the problems were caused by programming problems in the local exchange company's central office. London also reports that, on January 1, 1993, it instituted a policy of checking its pay telephone stations every seven to ten days in order to ensure that access to other carriers is not blocked and that other specific toll-free routes are available. Recent reinspections of these stations indicate that London has corrected these problems.

IMPROPER ROUTING AND RATING OF OPERATOR ASSISTED LOCAL CALLS

On October 8, 1993, Staff placed calls from two of London's pay telephones ((904) 574-2016 and 574-0791), to the Commission's test number (904-222-9507). The telephone calls were placed by dialing 0-222-9507, making it an operator assisted local call. Under Rule 25-24.515(7), Florida Administrative Code, these calls should have been routed to Sprint-Centel, the local exchange company. Instead, the calls were routed to Telecom*USA.

It appears that London Communications is incorrectly routing operator assisted local calls to its operator service provider, Southernnet, Inc. d/b/a Telecom*USA. In addition, had the calls been properly routed, Sprint-Centel would have billed an operator service charge of \$.75 plus \$.25 for the local call. Telecom*USA billed \$2.03 for the same call. This was even higher than the \$1.26 Telecom*USA billed for a direct dialed calling card call placed from a pay telephone in Key Largo to the Tallahassee test number. Staff is investigating the overcharging problem with Telecom*USA.

London's failure to route calls in accordance with Rule 25-24.515(7), Florida Administrative Code, resulted in Sprint-Centel being denied revenue producing calls and in this Commission, and presumably other end users, being overcharged for telephone calls placed from these pay telephone stations. Since we have only recently brought this to London's attention, it has not had an adequate opportunity to respond.

APPROPRIATE PENALTY

Staff met with counsel for London on January 21, 1994, to discuss this case. On January 26, 1994, London offered to settle this case for \$2,000. At the March 8, 1994 Agenda Conference, London increased its offer to \$4,000. Typical penalties for violations of pay telephone service standards have varied between \$100 and \$15,000. In certain circumstances, we have cancelled a violator's certificate. In this case, London has violated multiple service standards and has apparently misrepresented having taken corrective measures. We also note that London failed to find and correct the service standards violations, despite the prior show cause proceeding.

In fairness, we note that London has corrected a majority of the violations brought to its attention in prior service evaluation letters. Also, Tom Duffield of London Communications met with Staff on February 16, 1994, and expressed his desire to cooperate with this Commission and correct all violations. In fact, Mr. Duffield has represented that all of the violations alleged to date will be corrected by March 31, 1994. Nevertheless, we do not believe that London's new spirit of cooperation excuses the continuing violations that have been discovered notwithstanding the previous show cause proceeding. Considering the size of this company, the multiple violations, and the fact that London is a repeat offender, we believe that London should pay a penalty of \$6,000.

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It is, therefore,

ORDERED by the Florida Public Service Commission that London Communications, Inc.'s offers to settle this proceeding for \$2,000 and \$4,000 are rejected. It is further

ORDERED that London Communications, Inc. shall pay a penalty of \$6,000 for its violations of Rules 25-24.515(6), (7), and (14), Florida Administrative Code, and Order No. PSC-92-0194-FOF-TL. It is further

ORDERED that, unless a person whose interests are substantially affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this Order shall become final and this docket shall be closed upon verification that the fine has been paid.

By ORDER of the Florida Public Service Commission, this 30th day of March, 1994.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

Commissioner Laredo would have accepted the offer to settle this proceeding for \$4,000 and, therefore, dissented from the majority's decision.

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 April 20, 1994.

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.