

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by PHONE CONTROL SECURITY,) DOCKET NO. 891168-TC
 INC. for reconsideration of the rate cap) ORDER NO. 23151
 for local non-operator assisted calls from) ISSUED: 7-5-90
 a penal institution)
)

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER

ORDER CONSOLIDATING DOCKET NO. 891168-TC
INTO DOCKET NO. 860723-TP

BY THE COMMISSION:

On April 5, 1989, Phone Control Security, Inc. (PCSI or the Company) submitted an application for a certificate of public convenience and necessity to enable it to provide pay telephone service (PATS), pursuant to Chapter 364, Florida Statutes. PATS providers are subject to the provisions of Rules 25-24.505 through 25-24.520, Florida Administrative Code. Additionally, PATS providers must comply with our decisions in Order No. 14132, issued February 27, 1985, in Docket No. 860723-TP; Order No. 20489, issued December 21, 1988, in Docket No. 871394-TP; and Order No. 20610, issued January 17, 1989, in Docket No. 860723-TP, among others.

PCSI indicated that it intended to place pay telephones in penal institutions. Because of the potential for fraud and abuse in confinement facilities, PCSI requested a waiver of Rule 25-24.515(3), (4), and (6), Florida Administrative Code, to allow it to impose certain restrictions on its pay telephones located in penal institutions. PCSI also stated that it intended to charge \$1.00 for local calls originating from penal institutions due to its use of debit cards in lieu of coins for these telephones. PCSI noted that this would represent a substantial savings to the inmates because the inmates are currently limited to operator-assisted local calls at a cost of \$1.25 per call.

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By Order No. 21525, issued July 10, 1989, we proposed granting a PATS certificate to PCSI. We also proposed granting PCSI's requested Rule waiver, subject to certain limitations specified in the Order. Additionally, we required PCSI to abide by our decision in Order No. 14132 which capped the rate for local calls from pay telephones at \$.25. No protest was filed to Order No. 21525, so that Order became final and effective on August 1, 1989, as reflected in Order No. 21650.

In a letter dated October 18, 1989, PCSI requested reconsideration of our \$.25 rate cap for local calls. Because Order No. 21525 was issued as a proposed agency action, reconsideration of that Order is not appropriate. See Rule 25-22.060, Florida Administrative Code. Further, the time for requesting reconsideration of Order No. 14132 has long since expired. Id. However, viewed in the light most favorable to PCSI, we believe the Company's letter of October 18th should be treated as a petition for waiver of the rate cap specified in Order No. 14132. See Rule 25-22.036, Florida Administrative Code.

Upon consideration, we find it appropriate to consolidate PCSI's petition into the generic pay telephone proceeding, Docket No. 860723-TP. A hearing is scheduled in that Docket for August 1 through 3, 1990. Issue No. 8 in the upcoming hearing in that Docket explores the question:

Should a different rate cap and operational terms and conditions other than those generally available be permitted for penal and/or mental institutions?

See Order on Prehearing Procedure, Order No. 22824, issued April 13, 1990. Since the issue raised here by PCSI is identical to the above-referenced issue, we believe the just and speedy resolution of this matter can best be accomplished by consolidating this Docket into Docket No. 860723-TP, pursuant to Rule 25-22.035(2), Florida Administrative Code.

Finally, we note that PCSI has requested that its interrogatory responses in this Docket be accepted as its testimony in Docket No. 860723-TP. We find this request reasonable and appropriate. We note further that our staff has agreed to assist PCSI in making the necessary filing.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Docket No. 891168-TC shall be consolidated into Docket No. 860723-TP. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 5th day of JULY, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15)

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days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.