

ORIGINAL  
FILE COPY



JACK SHREVE  
PUBLIC COUNSEL

STATE OF FLORIDA  
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature  
111 West Madison St.  
Room 812  
Tallahassee, Florida 32399-1400  
850-488-9330

September 12, 1997

Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Re: Docket No. ~~970109-TI~~

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Citizens' Petition for \$120.57(1) Hearing and Protest of Proposed Agency Action.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

Sincerely,

*Charles J. Beck*  
Charles J. Beck  
Deputy Public Counsel

ACK   
AFA 1  
AFP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU Williams  
CTR \_\_\_\_\_  
EAG CJB:bsr  
LEG 1 Enclosures  
LIN 5  
OPR \_\_\_\_\_  
RCH \_\_\_\_\_  
SEC 1  
WAS \_\_\_\_\_  
OTH \_\_\_\_\_

RECEIVED & FILED  
*[Signature]*  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
09366 SEP 15 97  
FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL  
FILE COPY

In Re: Application to Provide )  
Interexchange Telecommunications )  
Service by KTNT Communications, )  
Inc., d/b/a I Don't Care and d/b/a )  
It Doesn't Matter )  
\_\_\_\_\_ )

Docket 970109-FI

Filed: September 15, 1997

**PETITION FOR §120.57(1) HEARING AND  
PROTEST OF PROPOSED AGENCY ACTION**

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this protest of proposed agency action and petition for a §120.57(1) hearing.

1. Section 350.0611, Florida Statutes (1995) authorizes the Public Counsel to appear, in the name of the state or its citizens, in any proceeding or action before the Commission and to urge therein any position which he deems to be in the public interest.

2. Order No. PSC-97-1060-FOF-TL issued September 9<sup>1</sup>, adversely affects the substantial interests of the Citizens by granting KTNT Communications, Inc., an unqualified certificate of authority to operate in the state of Florida.

<sup>1</sup> The Citizens received the Commission's order on September 10, 1997, by downloading the order from the Commission's internet site.

DOCUMENT NUMBER-DATE  
09366 SEP 15 97  
FPSC-RECORDS/REPORTING

3. Section 364.337(3), Florida Statutes (1995) states that the Commission shall grant a certificate of authority to provide intrastate interstate long distance telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capabilities to provide such service. KTNT has made it clear that its management wishes to use fictitious names such as "I don't know" and "I don't care" to trick the public into using their service, when in fact a would-be customer is not making an intentional selection of KTNT. Since such operations are a management decision, the company has shown that it has inadequate management capabilities to support a certificate from this Commission.

4. The Commission's decision concerning the company's management capabilities is particularly important in this case because KTNT, like any other company granted a certificate by this Commission, is exempt from Florida's Deceptive and Unfair Trade Practices Act, section 501.201, Florida Statutes, *et. seq.*<sup>2</sup> Presumably, this exemption exists because of the Commission's oversight. This Commission must therefore be vigilant to insure that it does not condone practices that would otherwise be a deceptive and unfair trade practice.

5. KTNT's plan to use fictitious names such as "I don't know" and "I don't care" are also anticompetitive. By tricking customers into use their service, a competitor is deprived of the opportunity to provide service to a customer who does not

---

<sup>2</sup> See section 501.212(4), Florida Statutes (1995).

wish to select a specific company to provide service. Section 364.01(g), Florida Statutes (1995) requires the Commission to ensure that all providers of telecommunications services are treated fairly, by preventing anticompetitive behavior and eliminating unnecessary regulatory constraint. Here, regulatory restraint is necessary to prevent anti-competitive behavior.

6. Section 364.335(3), Florida Statutes, empowers the Commission to make modifications to certificates in the public interest. If the Commission should nevertheless decide to grant a certificate to KTNT, it should modify the certificate to prohibit the company from using any fictitious names in Florida.

7. The Citizens submit the following issues of fact, law, and policy for resolution by the Commission in a hearing held pursuant to §120.57(1), Florida Statutes:

- (a) What are KTNT's business plans for the state of Florida?
- (b) Does KTNT's business plan include the use of deceptive and unfair trade practices?
- (c) Is KTNT's business plan anti-competitive?
- (d) Does KTNT have sufficient technical, financial, and managerial capabilities?
- (e) Is it in the public interest to allow KTNT to obtain a certificate from the

Commission?

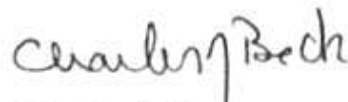
- (f) If it is in the public interest to allow KTNT to obtain a certificate from the Commission, should the certificate be modified to prohibit the company from using fictitious names in Florida?

These are the issues identified at this time. Additional issues may be identified as the case progresses.

**WHEREFORE**, the Citizens file this protest of the proposed agency action contained in order no. PSC-97-1060-FOF-TL and request a hearing pursuant to §120.57(1), Florida Statutes (1995).

Respectfully submitted,

JACK SHREVE  
Public Counsel



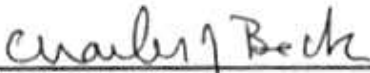
Charles J. Beck  
Deputy Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street  
Room 812  
Tallahassee, FL 32399-1400

Attorney for the Citizens  
of the State of Florida

**DOCKET NO. 970109-TI  
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.  
Mail or hand-delivery to the following parties on this 15th day of September, 1997.

  
\_\_\_\_\_  
Charles J. Beck

It Doesn't Matter  
621 Ruth Drive  
Kennedale, TX 76060

Patrick K. Wiggins, Esq.  
Wiggins & Villacorta  
Post Office Box 1657  
Tallahassee, FL 32302

Michael A. Gross, Esq.  
Assistant Attorney General  
Department of Legal Affairs  
Room PL-07  
The Capitol  
Tallahassee, FL 32399-1050

Martha Carter Brown  
Division of Legal Services  
Fla. Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0863