

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause	)	DOCKET NO. 880731-TC
proceedings against FLORIDA TELESYSTEMS,	)	
INC. for failure to comply with	)	ORDER NO. 22057
Commission Order 18904 and Rule	)	
25-24.512, F.A.C.	)	ISSUED: 10-16-89
	)	

The following Commissioners participated in the disposition of this matter:

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

ORDER ACCEPTING OFFER OF SETTLEMENT  
AND TERMINATING HEARING

BY THE COMMISSION:

By Order No. 21161, issued May 4, 1989, we directed Florida Telesystems, Inc. (Telesystems) to show cause why it should not be fined a total of ten thousand dollars (\$10,000) for its violation of Rule 25-24.512, Florida Administrative Code, and its failure to comply with Commission Order No. 18904. Additionally, by Order No. 21160, issued May 4, 1989, we announced our intention to cancel certificate of public convenience and necessity number 86 held by Florida Tel & Tel Coin Telephones, Inc. (Fla Tel), along with our intention to approve Telesystems' application for a certificate of public convenience and necessity for authority to provide pay telephone service (PATS).

Telesystems filed a timely response to both Order No. 21160 and Order No. 21161 and requested a Section 120.57(1), Florida Statutes, hearing on the issues raised by these orders. Telesystems contended that while it might have technically violated Rule 25-24.512, Florida Administrative Code, that any such violation on its part was neither intentional nor harmful; therefore, a fine of such magnitude would be inequitable. Telesystems also asserted that it had not failed to comply with Order No. 18904. Further, Telesystems questioned the propriety of cancelling the PATS certificate held by Fla Tel. Accordingly, the hearing process was commenced.

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Subsequently, Telesystems submitted a written offer of settlement to our staff. We have carefully considered this offer and we believe that under the unique facts and circumstances of this particular case, the public interest would not be served by further prolonging a resolution of this matter.

Accordingly, Telesystems will be fined five thousand dollars (\$5,000) for its violation of Rule 25-24.512, Florida Administrative Code. Two thousand dollars (\$2,000) of the fine is to be paid within thirty (30) days of issuance of this Order. The other three thousand dollars (\$3,000) is suspended for a period of one (1) year from the date of issuance of this Order. In accordance with the terms of Telesystems' offer, any additional finding of non-compliance with any Commission rules or orders during this one (1) year period will result, at a minimum, in imposition of the remaining three thousand dollar (\$3,000) fine.

Upon consideration, we find it appropriate to issue a certificate of public convenience and necessity for the provision of PATS to Telesystems. We believe that, in light of the terms of Telesystems' settlement offer, the granting of such a certificate is in the public interest. Telesystems is reminded that PATS providers are subject to Rules 25-24.505 through 25-24.520, Florida Administrative Code.

Further, we will cancel certificate of public convenience and necessity number 86 held by Fla Tel, effective upon issuance of this Order. Fla Tel is directed to return its certificate immediately to the Commission. In its settlement offer, Telesystems has agreed to acquiesce to cancellation of Fla Tel's PATS certificate and to assume responsibility for the pay telephones currently operated by Fla Tel.

We will not impose a fine on Telesystems for its alleged failure to comply with Commission Order No. 18904. Based upon information brought to our attention by Telesystems, it does not appear that Telesystems was responsible for the notations appearing in the local exchange company (LEC) billing records. However, we are still ordering Telesystems to conduct its PATS operation only under its legally registered name, Florida Telesystems, Inc., as filed on its application for a PATS certificate.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Telesystems, Inc.'s application for a certificate of public convenience and necessity is hereby granted as outlined in the body of this Order. It is further

ORDERED that Florida Tel and Tel Coin Telephones, Inc.'s certificate of public convenience and necessity number 86 is hereby cancelled for the reasons set forth herein. It is further

ORDERED that Florida Tel and Tel Coin Telephones, Inc., if it has not already done so, is to return its certificate and remit any and all outstanding regulatory assessment fees due to the Florida Public Service Commission. It is further

ORDERED that Florida Telesystems, Inc. is hereby fined \$5,000 for violation of Rule 25-24.512, Florida Administrative Code. \$2,000 of this fine must be paid within 30 days of issuance of this Order to:

Director of Records and Reporting  
101 East Gaines Street  
Tallahassee, Florida 32399-

It is further

ORDERED that the remaining \$3,000 of the fine assessed against Florida Telesystems, Inc. is suspended for a period of one year from the date of this Order, under the terms and conditions further specified within the body of this Order. It is further

ORDERED that Florida Telesystems, Inc. shall not be fined for its alleged failure to comply with Order No. 18904 for the reasons set forth herein. It is further

ORDERED that Florida Telesystems, Inc. is authorized to operate its pay telephone business only under the name Florida Telesystems, Inc. It is further

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ORDERED that this docket shall remain open for a period of one year to allow our staff to monitor Florida Telesystems, Inc.'s compliance with the terms of this Order.

By ORDER of the Florida Public Service Commission,  
this 16th day of OCTOBER, 1989.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ABG

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) 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,

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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.