

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause	)	DOCKET NO. 891277-TI
proceedings against ATS COMMUNICATIONS,	)	
INC. for violation of Rule 25-24.470,	)	ORDER NO. 22543
F.A.C., Certificate of Public Con-	)	
venience and Necessity Required.	)	ISSUED: 2-13-90
	)	

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 TO SHOW CAUSE

BY THE COMMISSION:

On June 16, 1989, while investigating an inquiry from a resident of Florida, Commission Staff received information indicating that ATS Communications, Inc. (ATS), was reselling interexchange telephone service within the State of Florida. A Staff member later attended an ATS sales presentation at a local civic club at which they heard persons holding themselves out as ATS representatives offer to provide interexchange telephone service to locations in Florida.

On August 28, 1989, Staff informed ATS that, in view of its activities, it may need a certificate of public convenience and necessity to provide telecommunications services within Florida and attached an application and tariff information booklet to the letter.

On September 1, 1989, ATS filed an incomplete application. Staff again mailed an application to ATS on September 7, 1989. On October 20, 1989 Staff reminded ATS of its failure to file a complete application as requested on September 7, 1989.

At present, this Commission has not received a complete application from ATS nor has there been any communications from the company since September 1, 1989.

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In view of the information outlined above, it appears that ATS is operating as a telecommunications provider within the state of Florida without the certificate required by Section 364.33, Florida Statutes, and Rule 25-24.470, Florida Administrative Code. We find that Commission Staff has presented prima facia evidence of a violation of Section 364.33, Florida Statutes, and Rule 25-24.470, Florida Administrative Code. Therefore, we find it appropriate to order ATS to show cause why it should not be fined the sum of \$5,000 for violation of Section 364.33, Florida Statutes, and Rule 25-24.470, Florida Administrative Code.

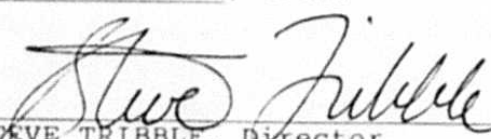
Failure to respond within 20 days of the issuance of this Order, as provided below, shall constitute an admission of the facts alleged above and a waiver of your right to be heard thereon.

Based on the foregoing, it is hereby

ORDERED that ATS Communications Company shall show cause in writing why it should not be fined \$5,000 for violation of Section 364.33, Florida Statutes, and Rule 25-24.470, Florida Administrative Code. It is further,

ORDERED that this docket shall remain open pending resolution of the show cause proceedings.

By ORDER of the Florida Public Service Commission,  
this 13th day of FEBRUARY, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

JR

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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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are adversely affected by the action proposed by this order may file a petition for a formal proceeding pursuant to Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a), 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 March 5, 1990.

Failure to respond within the time set forth above shall constitute a admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any 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 the default date set forth in 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.