

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Show Cause Proceedings Against)
the following Companies for Violation of)
Commission Rule 25-24.520, F.A.C., 1987)
Annual Report Requirements for Pay)
Telephone Service Companies.)

JOSES GROCERY, d/b/a A&K SUPERIOR MARKET)
ADVANCED PUBLIC TELEPHONES)
ADALBERTO BUTARELLI)
AHMAD MAHMOOD)
ALL SEASONS RESORTS, INC.)
ALLAN J. SAMPSON)
AMERICAN COMMUNICATIONS ENTERPRISE, INC.)
AMERICAN COMMUNICATIONS)
AMERICAN COMTEL CORPORATION)
BONITA BAY MARINA)

DOCKET NO. 900318-TC
DOCKET NO. 900320-TC
DOCKET NO. 900321-TC
DOCKET NO. 900322-TC
DOCKET NO. 900323-TC
DOCKET NO. 900324-TC
DOCKET NO. 900325-TC
DOCKET NO. 900326-TC
DOCKET NO. 900327-TC
DOCKET NO. 900330-TC

ORDER NO. 23225
ISSUED: 7-19-90

The following Commissioners participated in the disposition of this matter:

- MICHAEL McK. WILSON, Chairman
- BETTY EASLEY
- GERALD L. GUNTER
- FRANK S. MESSERSMITH

ORDER INITIATING SHOW CAUSE PROCEEDINGS

DEMAND FOR RESPONSE WHY A FINE SHOULD NOT BE IMPOSED
OR IN THE ALTERNATIVE, WHY CERTIFICATE SHOULD NOT
BE CANCELLED FOR FAILURE TO FILE ANNUAL REPORTS

BY THE COMMISSION:

Rule 25-24.520, Florida Administrative Code, requires the filing of annual reports with the Commission, due January 31st. As certificated Pay Telephone Service (PATS) providers, the companies listed in the caption of this Order are subject to the jurisdiction of this Commission and have failed to file the required reports. Notices were sent on December 21, 1989 and February 6, 1990, respectively, requesting compliance within 20 days of each notice. As of June 12, 1990, the

DOCUMENT NUMBER-DATE
06455 JUL 19 1990
FPSC-RECORDS/REPORTING

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companies referenced above have not responded. The subject companies and their respective certificate numbers are as follows:

<u>Name</u>	<u>Certificate No.</u>
JOSES GROCERY d/b/a A&K SUPERIOR MARKET	1827
ADVANCED PUBLIC TELEPHONES	2187
ADALBERTO BUTARELLI	2261
AHMAD MAHMOOD	2251
ALL SEASONS RESORTS, INC.	2193
ALLAN J. SAMPSON	2315
AMERICAN COMMUNICATIONS ENTERPRISE, INC.	1336
AMERICAN COMMUNICATIONS	2324
AMERICAN COMTEL CORPORATION	2147
BONITA BAY MARINA	2323

Pursuant to Section 364.285, Florida Statutes, this Commission is authorized to levy a fine of up to \$5,000 for each violation of a statute, rule or order subject to the Commission's jurisdiction or to revoke a certificate of public convenience and necessity. Accordingly, we find it appropriate to require each PATS company listed above to show cause in writing why it should not be fined \$100, or in the alternative, have its certificate revoked for failure to file its 1987 annual report as required by Rule 25-24.520. All responses to this Order to Show Cause shall be filed in conformance with Rules 25-22.036(7)(a) and 25-22.037(1), Florida Administrative Code. Each Company's response shall contain specific statements as to fact and law.

If any PATS company fails to respond to this show cause in the form and within the time limits prescribed, the facts alleged in this Order shall be deemed true and shall constitute an admission of guilt of the violation of Rule 25-24.520 and a waiver of the right to a hearing. If no response is received from a company, we find it appropriate that no fine be imposed and that the company's certificate is hereby cancelled.

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Any company desiring to avoid the potential of either a fine or revocation of its certificate as a result of this show cause order may request voluntary cancellation of its certificate. If a company requests cancellation of its certificate, this show cause order is withdrawn as to that party. A request for cancellation pursuant to this Order shall be filed within the time limits set forth herein. A request for cancellation of a certificate must include (a) a statement of intent and date to pay Regulatory Assessment Fee and (b) a statement of why the certificate is proposed to be cancelled. Payment of fine or a written request to cancel a certificate should be mailed to:

Director of Records and Reporting
Florida Public Service Commission
101 East Gaines Street
Tallahassee, Florida 32399-0850.

Therefore, based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each company listed in the caption of this Order shall show cause in writing why it should not be fined \$100 or, in the alternative, have its certificate revoked for failure to file the reports required by Rule 25-24.520, Florida Administrative Code, or return a written request that its certificate be cancelled and the docket will be administratively closed. It is further

ORDERED that any response filed by any company described in the body of this Order must contain specific statements as to fact and law. It is further

ORDERED that a response or a request for cancellation shall be filed within 20 days of the date of this Order. It is further

ORDERED that upon receipt of a response as outlined above, and upon a Company's request for a hearing, further proceedings will be scheduled by the Commission, at which time the Company will have an opportunity to contest the violations alleged above. It is further

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ORDERED that any Company's failure to respond in the form and within the prescribed time will constitute admission of guilt of the violations alleged above and a waiver of the right to a hearing. It is further

ORDERED that if no timely response to this Order is filed by a Company described herein, that Company's certificate is hereby revoked as set forth in the body of this Order.

By ORDER of the Florida Public Service Commission,
this 19th day of July, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: *Kay Ferguson*
Chief, Bureau of Records

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 affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This

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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 August 8, 1990.

Failure to respond within the time set forth above shall constitute an 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(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 this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.