

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to	)	DOCKET NO. 900852-TC
provide pay telephone service by	)	ORDER NO. 23989
PAYPHONE SERVICES COMPANY, INC.	)	ISSUED: 1-15-91
	)	

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION

ORDER DENYING APPLICATION FOR CERTIFICATE  
OF PUBLIC NECESSITY AND CONVENIENCE

Payphone Services Company, Inc. (Payphone Services or the company) was first certificated on October 4, 1988. Pursuant to Commission Order 23221 issued July 25, 1990, Payphone Services was canceled for failure to comply with Rule 25-24.520, Florida Administrative Code, 1989 Annual Report Requirement, and for violation of Rule 25-24.043, Florida Administrative Code, Response Requirement.

On October 23, 1990, Payphone Services filed another application for certificate of public convenience and necessity. According to the application, the officers for Payphone Services are Vahid Abadian, President, and Mahmood Baik, Vice President.

The officers for Payphone Service both currently hold or at one time held a pay telephone certificate. Vahid Abadian was certificated from February 17, 1988 to September 11, 1988, at which time he requested cancellation of his certificate. Mahmood Baik has been certificated since July 12, 1988, and his certificate remains active.

On July 25, 1990, we issued Order No. 23221 requiring Payphone Services to show cause in writing why it should not be fined \$100 for failure to file its 1989 annual report, pursuant to Rule 25-24.520, Florida Administrative Code. Order No. 23221 also provided that in the event that Payphone Services failed to file an adequate response as defined by Rule 25-22.036(7)(a), Florida Administrative Code, the company would be deemed to have defaulted with regard to the allegations made.

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Payphone Services did not file an adequate written response and its PATS Certificate was canceled on August 15, 1990. Subsequently, Payphone Services' lines were disconnected. At that time, Payphone Service contacted the Commission staff and reapplied for a new Certificate.

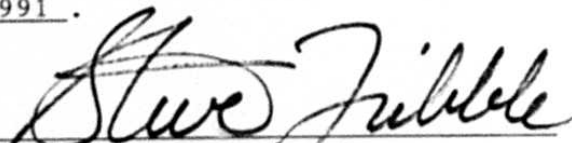
We adopt the position that annual reports are an essential requirement for retaining a PATS Certificate. Furthermore, Payphone Services failed to adequately respond in writing as specifically required by Show Cause Order No. 23221. The failure to respond had the effect of a default. If our rules or orders are to have any weight or effect we cannot permit PATS providers to ignore our rules and orders and simply reapply for another certificate after we have canceled their first certificate for violations.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Payphone Services Company, Inc.'s application for a certificate of public necessity and convenience to provide pay telephone service is hereby denied. It is further

ORDERED that unless a formal protest is filed pursuant to requirements below this docket will be closed at the conclusion of the protest period.

By ORDER of the Florida Public Service Commission, this 15th day of JANUARY, 1991.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

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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 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 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 February 5, 1991.

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.