

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to)	DOCKET NO. 910106-TC
provide pay telephone service by FLORIDA)	ORDER NO. 24382
PUBLIC PAY PHONE CORPORATION.)	ISSUED: 4/18/91
_____)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 GERALD L. GUNTER
 MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING CERTIFICATE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Florida Public Pay Phone Corp. (Florida Public or the Company) submitted an application for a certificate to provide pay telephone service on December 10, 1990. On October 23, 1990, a complaint was filed against Florida Public with the Division of Consumer Affairs. The complainant lost \$1.00 in the pay telephone and tried to contact the pay telephone operator by dialing 211; however, the number was not in service. The name listed on the pay telephone as the company's contact was Dan Gold. Since Florida Public is not certificated as a pay phone provider the complaint was sent to the Division of Communications for further action.

Upon further investigation by staff, it was discovered that the company contact Dan Gold has a certificate in the name of Daniel Goldstein (Mr. Goldstein). Mr. Goldstein has been a certificated pay telephone provider since August 15, 1990. A certified letter requesting a response to the complaint and the pay phone operations of Florida Public and Mr. Goldstein was sent on December 7, 1990. Mr. Goldstein responded by sending in an application for Florida Public; however, he failed to address the issue of the complaint and what actions would be taken to correct the pay phone and compensate the customer. A second certified letter was sent on January 16, 1991 requesting a response to the complaint. A response was due on January 31, 1991; however, a response has not been received. In addition to Mr. Goldstein's

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failure to respond to the complaint by January 31, Mr. Goldstein failed to file a 1990 Pay Telephone Annual Report.

As an officer of the company, Mr. Goldstein has violated numerous rules regulating Pay Telephone Service providers. These violations will be more fully addressed in a separate show cause order but include:

Rule 25-4.043, Florida Administrative Code - The necessary replies to inquiries propounded by the Commission's staff concerning service or other complaints received by the commission shall be furnished in writing within fifteen (15) days from the date of the Commission inquiry.

Rule 25-24.511(5), Florida Administrative Code - Each telephone station shall be equipped with a legible sign card or plate of reasonable permanence which shall identify the following; telephone number and location address of such station, name or recognizable logo of the owner and the party responsible for repairs and refunds, address of responsible party, free phone number of responsible party, clearing dialing instructions...

Rule 25-24.520(1), Florida Administrative Code - Each pay telephone service company shall file with the Commission's Division of Communications updated information for the following items within ten (10) days after such changes occur: The address of the certificate holder (street number and name, city, state and zip code)...

Rule 25-24.520(2), Florida Administrative Code - Each pay telephone service company shall file with the Division of Communications by January 31 of each year, a report showing the certificate holder's name and address, the telephone number of the persons responsible for Commission contacts, the number of instruments in place as of the end of the year, a statement of whether the company is currently providing service to customers, and if not, the last date service was provided to customers and plans for providing service in the future.

A certificate will only be granted if the Commission determines that grant of the application is in the public interest.

Because of these numerous apparent violations by an officer of the company, and because Florida Public appears to have been

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operating without its own certificate, we find that it would not be in the public interest and therefore inappropriate to grant a certificate to provide pay telephone service to Florida Public Pay Phone Corporation.

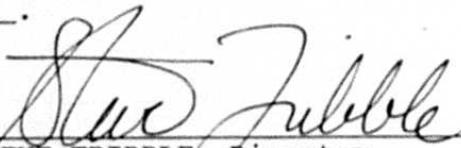
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application to provide pay telephone service by Florida Public Pay Phone Corporation is hereby denied. It is further

ORDERED that any protest to this order be filed pursuant to the requirements set forth below. It is further

ORDERED that this docket remain open pending resolution of a related show cause Order.

By ORDER of the Florida Public Service Commission, this 18th day of APRIL, 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.

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The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. 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 25-22.029(4), 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 May 9, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an 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. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.