

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to)	DOCKET NO. 900648-TC
provide pay telephone service by COMTEL)	ORDER NO. 25287
OF ORLANDO, INC.)	ISSUED: 11/01/91
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The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 SUSAN F. CLARK
 J. TERRY DEASON
 BETTY EASLEY
 MICHAEL MCK. WILSON

FINAL ORDER DISMISSING RESPONSE
AND CLOSING DOCKET

BY THE COMMISSION:

On July 23, 1990, Comtel of Orlando, Inc. (Comtel) applied for a Certificate of Public Necessity and Convenience to provide pay telephone service (PATS). On October 9, 1990, we issued Order No. 23595 denying Comtel the certificate. Subsequently, Comtel filed a response to Order No. 23595.

On February 6, 1991, our staff served its First Set of Interrogatories and its First Request for the Production of Documents. When Comtel failed to respond to either of these discovery requests, our staff filed Motions to Compel on April 11, 1991. On June 11, 1991, the Prehearing Officer issued Order Nos. 24651 and 24652 requiring Comtel to respond to staff's discovery efforts. Attempts to contact Comtel by telephone have been unsuccessful, and recently, mail has been returned as undeliverable.

Comtel has failed to comply with a lawful discovery order issued by the Prehearing Officer. Rule 25-22.042, Florida Administrative Code, provides:

- (1) The failure or refusal of a party to comply with any lawful order may be cause for dismissing the party from the proceeding.

Comtel has failed to comply with any discovery requests thereby seriously impeding the progress of this docket. Comtel has been so unresponsive and uncooperative as to make a final determination on the merits impossible. Dismissal is warranted and appropriate in such cases.

DOCUMENT NUMBER-DATE

10908 NOV -1 1991

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Comtel of Orlando, Inc.'s response to Order No. 23595 is dismissed and that Order No. 23595 is hereby affirmed as a final action effective the date of issuance of this Order. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this 1st day of NOVEMBER, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: *Kay Selton*
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.

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, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer

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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.