

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 961506-TC
proceedings against PhoneTel) ORDER NO. PSC-97-0461-AS-TC
Technologies, Inc. for violation) ISSUED: April 23, 1997
of Rules 25-24.515, F.A.c., Pay)
Telephone Services, and 25-)
4.043, F.A.C., Response)
Requirement.)
_____)

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

ORDER ACCEPTING SETTLEMENT

BY THE COMMISSION:

BACKGROUND

PhoneTel Technologies, Inc. (PhoneTel), holder of Certificate No. 3644, is a provider of pay telephone service. It was certificated on January 27, 1994. According to local exchange company (LEC) records, PhoneTel owns and operates approximately 936 pay telephones in Florida. PhoneTel reported gross operating revenues of \$1,364,326 on its regulatory assessment fee return for the period January 1, 1996 through December 31, 1996.

On the basis of apparent ongoing rule violations, our staff opened this docket to investigate whether PhoneTel should be required to show cause why it should not be fined or have its certificate canceled, or both, pursuant to Section 364.285, Florida Statutes. Prior to our considering whether to initiate a show cause proceeding, PhoneTel submitted a settlement offer. The company offered to pay \$3,000 and to confirm within 90 days of our order that all of its telephones were compliant with Commission rules. It would submit monthly progress reports during that time.

In considering the settlement offer at agenda conference on February 18, 1997, we became aware of Order No. PSC-95-0354-FOF-TC, issued March 14, 1995, in Docket No. 950040-TC, in which we ordered PhoneTel to make refunds for overcharges on intrastate long distance calls placed from its pay telephones. We deferred our consideration of the settlement offer and directed our staff to review the circumstances in the earlier proceeding. Current PhoneTel management had been unaware of that proceeding because of

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subsequent organizational changes. On March 11, 1997, PhoneTel submitted a revised settlement proposal. We accept herein the revised proposal as submitted.

DECISION

On September 26, 1996, our staff performed routine service evaluations on pay telephones operated by PhoneTel and found numerous violations of Commission service standards. Ten instruments were found in violation of Rule 25-24.515(6), Florida Administrative Code, Access to All Locally Available Interexchange Companies. Eleven instruments were found in violation of Rule 25-24.516(1)(a), Florida Administrative Code, Extended Area Service.

Our staff notified PhoneTel of the violations on October 8, 1996, and advised the company that it was to bring the instruments into compliance with Commission rules within 15 days. When no response was received, the staff mailed a second certified letter on November 14, 1996. PhoneTel responded on November 21, 1996, that access to all available interexchange carriers was available, and that the telephones had been reprogrammed to charge \$.25 for Extended Area Service (EAS) calls. PhoneTel's response, however, was 28 days late and in violation of Rule 25-4.043, Florida Administrative Code, which requires that "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."

In its October 8, 1996, notification, moreover, our staff suggested that PhoneTel inspect all of its pay telephones for these same violations. Nevertheless, upon further evaluation on November 26, 1996, our staff established that 13 instruments, ten of which were in violation initially, were still in violation of Rule 25-24.515(6), Florida Administrative Code, and 11 instruments, nine of which were in violation initially, were still in violation of Rule 25-24.516(1)(a), Florida Administrative Code.

On January 10, 1997, PhoneTel called our staff to arrange a meeting on January 13, 1997, to discuss the violations. At the meeting, PhoneTel stated that the 950 blocking violations occurred due to a computer problem when PhoneTel was installing revised programs following the 954 area code permissive dialing period. PhoneTel employed an automatic downloading feature that would reinstall old rate tables during the polling cycle. PhoneTel discovered this problem only after notification of repeated violations. In addition, PhoneTel explained that no overcharging occurred related to the EAS violations. Call attempts would have

been blocked by dialing format error messages generated by PhoneTel's pay telephones or the area LEC.

On March 11, 1997, PhoneTel submitted a new proposed settlement offer of \$6,000, while agreeing to take the following corrective action:

- (1) check every PhoneTel pay telephone in Florida at least two times per month to insure compliance;
- (2) repair each pay telephone within 24 hours of notice that one is in disrepair or noncompliance;
- (3) keep current directories, binders, upper and lower housing cards and address/ANI labels in stock on every service vehicle;
- (4) implement within 30 days a dispatch system which will permit tracking and repair follow up in order to test the integrity of the equipment and operations, which will include, but not be limited to, the programming of the telephone and the repairs made by the field technicians;
- (5) manually verify rate table data prior to downloading and monitor for accuracy;
- (6) download pay telephones manually so they may be monitored for accuracy and completion and obtain rate table data from multiple sources to insure accuracy prior to being downloaded into the pay telephone;
- (7) test for all call routing, including, but not limited to 950, 800, 888 and 10XXX, and perform all service and maintenance on a 10-15 day basis;
- (8) test every pay telephone for EAS dialing format during the course of the technicians' 10-15 day service/maintenance schedules; and
- (9) subscribe to an online service which will provide updated exchanges and changes in dialing formats as implemented by area LECs.

We find that the terms of the settlement proposed by PhoneTel are fair and reasonable. Immediately upon notice of the staff's recommendation that we initiate a show cause proceeding, PhoneTel requested a meeting in which it explained steps it had taken to avoid future rule infractions. PhoneTel has been very cooperative

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with staff and has provided any and all information requested in a satisfactory manner. We also believe that PhoneTel was very cooperative in Docket No. 950040-TC. Therefore, we find it appropriate to accept PhoneTel's revised settlement. The \$6,000 to be paid in settlement shall be remitted within ten days of this Order and then forwarded to the Office of the Comptroller for deposit in the State General Revenue Fund pursuant to Section 364.285(1), Florida Statutes.

We note that our staff intends to conduct follow-up inspections of PhoneTel's pay telephones, and that any continued violations of Commission service standards may result in the staff opening another docket to investigate whether to take additional action.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that the settlement proposed by PhoneTel Technologies, Inc., as more fully described in the body of this Order, is hereby accepted. It is further

ORDERED that the money to be paid in settlement shall be remitted within ten days of this Order. It is further

ORDERED that the remittance shall be forwarded upon receipt to the Office of the Comptroller for deposit in the State General Revenue Fund. It is further

ORDERED that this docket shall be closed upon remittance of the money to be paid in settlement.

By ORDER of the Florida Public Service Commission, this 23rd day of April, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)
CJP

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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 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.