

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of AQUA-COM-CO.,	)	DOCKET NO. 891329-TC
INC. for certificate to provide pay	)	ORDER NO. 22472
telephone service	)	ISSUED: 1-25-90
	)	

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING PAY TELEPHONE CERTIFICATE  
AND AUTHORIZING RULE WAIVER

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 substantially affected files a petition for formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

On November 15, 1989, Aqua-Com-Co., Inc. (Aqua-Com or the Company) submitted an application for a certificate of public convenience and necessity to enable it to provide pay telephone service (PATS), pursuant to Section 364.33, Florida Statutes. PATS providers are subject to the provisions of Rules 25-24.505 through 25-24.520, Florida Administrative Code. Additionally, PATS providers must comply with our decisions in Order No. 14132, issued February 27, 1985, in Docket No. 860723-TP; Order No. 20489, issued December 21, 1988, in Docket No. 871394-TP; and Order No. 20610, issued January 17, 1989, in Docket No. 860723-TP, among others.

In reviewing the application of the Company, we find it contains the information required for certification as set forth in the Orders and Rules cited above. Based on the foregoing, we propose to grant a certificate to Aqua-Com to provide toll and local public pay telephone service consistent with the conditions and requirements set forth in Rules 25-24.505 through 25-24.520, Florida Administrative Code.

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Aqua-Com has indicated that it intends to place pay telephones in penal institutions. Because of the potential for fraud and abuse, the Company has proposed denying the inmates access to repair, 911, 411, and all locally available interexchange carriers (IXCs) other than the presubscribed IXC for that location. U.S. Sprint Communications Company Limited Partnership (Sprint) will be the presubscribed IXC for interexchange and operator services. InterLATA calls would be handled by Sprint, while intraLATA calls would be diverted to the serving local exchange company (LEC). In order for Aqua-Com to provide the restricted telephone service described above, a waiver of Rule 25-24.515(3), (4) and (6), Florida Administrative Code, would be necessary. The Company has requested such a waiver.

By Order No. 21221, issued May 11, 1989, we granted SouthernNet Services, Inc. a waiver of Rule 25-24.515(6), Florida Administrative Code. By Order No. 21525, issued July 10, 1989, we granted Phone Control Security, Inc. a waiver of Rule 25-24.515(3), (4) and (6), Florida Administrative Code. By Order No. 21767, issued August 22, 1989, Communications Central, Inc. was also granted a waiver of Rule 25-24.515(3), (4) and (6), Florida Administrative Code. In all of these Orders, the waiver was limited to only those pay telephones placed in penal institutions for the use of inmates.

Upon consideration, we find it appropriate to grant Aqua-Com's rule waiver request. However, consistent with Orders No. 21221, 21525 and 21767, discussed above, this waiver shall apply only to pay telephones in penal institutions and shall include only those restrictions set forth above. Any other pay telephones that Aqua-Com may install shall be subject to all our rules pertaining to pay telephone service.

In addition, because the inmates will be restricted to only one IXC, Aqua-Com shall not be permitted to charge more than the AT&T Communications of the Southern States, Inc. (ATT-C) Direct Distance Dialing (DDD) time-of-day rate, plus applicable operator charges, for interexchange calls placed by the inmates. This means Aqua-Com will not be allowed to bill the additional charge of up to one dollar that we normally allow nonLEC PATS providers to bill. We believe it is necessary to limit the rates where the billed party has no choice of interexchange carrier. This limitation is consistent with our prior actions concerning pay telephones located in penal institutions.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Aqua-Com-Co., Inc. is hereby granted a certificate to provide pay telephone service, both toll and local, subject to the terms and conditions specified in the body of this Order. It is further

ORDERED that Aqua-Com-Co., Inc.'s request for waiver of Rule 25-24.515(3), (4) and (6), Florida Administrative Code, is hereby granted as set forth herein. It is further

ORDERED that Aqua-Com-Co., Inc. shall not charge more than the AT&T Communications of the Southern States, Inc.'s Direct Distance Dialing time-of-day rate, plus applicable operator charges, for interexchange calls, as set forth in the body of this Order. It is further

ORDERED that the effective date of our action described herein is the first working day following the date specified below, if no protest to this Proposed Agency Action is filed within the time frames specified below.

By ORDER of the Florida Public Service Commission,  
this 25th day JANUARY, 1990.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

ABG :-

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

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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.

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 February 15, 1990.

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, and as reflected in a subsequent order.

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.