

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Pay Telephone Certificate.)	
)	
MORTON WINKEL)	DOCKET NO. 900698-TC
COMMERCIAL TELEPHONE'S, INC.)	DOCKET NO. 900735-TC
KURT D. MALPHURS)	DOCKET NO. 900746-TC
LUCKY'S AUTO LEASING, INC.)	DOCKET NO. 900750-TC
BARNEY LOWENSTEIN)	DOCKET NO. 900758-TC
)	
)	ORDER NO. 23593
)	ISSUED: 10-09-90

The following Commissioners participated in the disposition of this matter:

- THOMAS M. BEARD
- BETTY EASLEY
- GERALD L. GUNTER
- FRANK S. MESSERSMITH

NOTICE OF PROPOSED AGENCY ACTION

ORDER GRANTING PAY TELEPHONE CERTIFICATES

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.

The respective companies listed in the caption of this Order filed applications for a certificate to provide pay telephone service (PATS). These applications were filed pursuant to Section 364.33, Florida Statutes (1985), which provides that no person can begin construction or operation of a telephone line, plant or system without first obtaining from this Commission a certificate of public convenience and necessity.

By Order No. 14132, issued February 27, 1985, this Commission authorized the provision of competitive pay telephone service on a toll-only basis in addition to the PATS that is currently provided

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by the local exchange companies. Effective June 24, 1985, Section 364.335(4), Florida Statutes (1985), was amended to expand our authority to grant to PATS providers the authority to offer local PATS in addition to the previously allowed toll PATS. In Order No. 14132, we set forth the requirements for certification of PATS providers as well as the terms, conditions, service standards and rates that apply to the provision of PATS. Additionally, we required PATS providers to comply with the requirements of Section 350.113, Florida Statutes, which imposes a regulatory assessment fee. We also required each PATS provider to report to the Commission the number of pay telephone instruments that it operates in Florida. This report should be filed in conjunction with a PATS provider's payment of its regulatory assessment fee to this Commission. Further, in order to obtain service from a local exchange company for a PATS instrument, each PATS provider must specifically request a coin access line from the serving local exchange company.

PATS providers are subject to the provisions of Rules 25-24.505 through 25-24.520, Florida Administrative Code. These rules govern the operation of PATS.

In reviewing the applications of the Companies, we find that they contain the information required for certification as set forth in Order No. 14132 and the Rules cited above. Based on the foregoing, we propose to grant to each of the companies listed in the caption of this Order a certificate 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.

The dockets listed in this Order will be closed following expiration of the period specified in this Order unless an appropriate petition for hearing, protesting a specific application, is filed by one whose substantial interests may or will be affected by this proposed agency action, as provided by Florida Administrative Code Rules 25-22.029 and 25-22.036(7)(a). A petition protesting a specific application filed by one whose substantial interests are affected will not prevent our proposed action from becoming final as to any other application listed in this Order.

It is, therefore,

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ORDERED by the Florida Public Service Commission that the applicants listed in the caption of this Order be granted a certificate to provide public pay telephone service subject to all the conditions stated in the body of this Order. It is further

ORDERED that a petition protesting a specific application, filed by one whose substantial interests are affected, will not prevent the action proposed herein from becoming final as to other applications listed in the Order.

By ORDER of the Florida Public Service Commission, this
9th day of OCTOBER, 1990.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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.

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

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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 October 30, 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.