

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of show cause) DOCKET NO. 931042-TC
proceedings against TELEPHONE) ORDER NO. PSC-93-1805-FOF-TC
OPERATING SYSTEMS, INC. for) ISSUED: December 20, 1993
violation of Rules 25-24.515(6),)
F.A.C., Access to Locally)
Available Interexchange)
Carriers, and 25-24.515(14),)
F.A.C., Regarding Wheelchair)
Access)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

By Order No. 19820, issued August 18, 1988, this Commission granted Pay Telephone Certificate No. 2111 to Telephone Operating Systems, Inc. (TOPS). Our pay telephone certificate application packet includes a form stating that the applicant, if approved, will abide by all Commission requirements for pay telephone providers. This agreement was signed by Robert C. Dickhaus, President of TOPS, on June 3, 1988.

Under Rule 25-24.515(14), Florida Administrative Code, all pay telephone stations installed after January 5, 1987, must conform to subsections 4.29.2 through 4.29.4, and 4.29.7 through 4.29.8 of the American National Standards Specifications for Making Buildings and Facilities Accessible and Usable by Physically Handicapped People, approved February 5, 1986, by the American National Standards Institute, Inc. (ANSI A117.1-1986). Pursuant to Rule 25-24.515(6), Florida Administrative Code, all pay telephone stations in equal access areas which provide access to any interexchange carrier must provide coin free access to all locally available interexchange carriers, including 10XXX+0, 950, and 800 access.

TOPS currently operates approximately 875 pay telephones in Florida. Between January 1, 1992, and October 5, 1993, the Staff of this Commission conducted service evaluations of 259 pay

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telephones operated by TOPS. Sixty-four of the instruments evaluated appeared to be in violation of Rule 25-24.515(14), Florida Administrative Code. Fifteen of the instruments evaluated appeared to be in violation of Rule 25-24.515(6), Florida Administrative Code. Another 207 instruments had minor violations, such as missing directories. Only 52 of the instruments evaluated were satisfactory. TOPS was notified of each violation in writing.

This is not the first time that TOPS has been before this Commission for these violations. By Order No. 25035, issued September 9, 1991, we required TOPS to show cause why it should not be fined for violations of the handicap access and interexchange carrier access rules. Although TOPS settled that proceeding by paying a \$500 fine, it should be well aware of these requirements by this time.

We believe that violations of this Commission's service standards, particularly our handicap access standards, are very serious. It appears, however, that TOPS either has little regard for the service standards established by this Commission or that it is waiting for Staff to identify problems before correcting them. Accordingly, we find it appropriate to require TOPS to show cause, in writing, why it should not be fined \$10,000 or have Certificate No. 2111 revoked for its apparent violations of Rules 25-24.515(6) & (14), Florida Administrative Code. TOPS written response must contain specific allegations of fact and law. Should TOPS fail to respond in a timely manner, such failure shall constitute an admission of the alleged violations and a waiver of any right to a hearing.

It is, therefore,

ORDERED by the Florida Public Service Commission that Telephone Operating Systems, Inc. shall show cause, in writing, why it should not be fined \$10,000 or have Certificate No. 2111 revoked for its apparent violations of Rules 25-24.515(6) & (14), Florida Administrative Code. It is further

ORDERED that Telephone Operating Systems, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that, should Telephone Operating Systems, Inc. fail to file an appropriate written response by the date set forth in the Notice of Further Proceedings or Judicial Review, such failure shall constitute an admission of the alleged violations, and a waiver of any right to a hearing. It is further

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ORDERED that, unless Telephone Operating Systems, Inc. files a written response in the form and by the date set forth in the Notice of Further Proceedings or Judicial Review, a fine of \$10,000 shall become due and payable, Certificate No. 2111 shall be administratively cancelled, and this docket shall be closed on the following date. It is further

ORDERED that, should Telephone Operating Systems, Inc. elect to pay the fine, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 20th day of December, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

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.

This order is preliminary, procedural or intermediate in nature. 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 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a)

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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 January 10, 1994.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.