



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED FPSC
JAN 20 AM 11:43
RECORDS AND REPORTING

DATE: JANUARY 21, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (MILLER, PEÑA)
DIVISION OF COMMUNICATIONS (T.WILLIAMS) *TEN Jan NP*

RE: DOCKET NO. 981592-TC -INITIATION OF SHOW CAUSE PROCEEDINGS AGAINST TRITEL, INC. FOR VIOLATION OF RULE 25-24.510, FLORIDA ADMINISTRATIVE CODE, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED AND APPLICATION FOR CERTIFICATE TO PROVIDE PAY TELEPHONE SERVICE BY TRITEL, INC.

AGENDA: 02/02/99 - REGULAR AGENDA - ISSUE 1 -SHOW CAUSE- ISSUE 2- PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981592TC.RCM

CASE BACKGROUND

On October 28, 1998, Commission staff received a customer complaint that a company called TriTel, Inc. (TriTel) was operating a pay telephone business without a certificate. TriTel is listed as an active corporation with the Florida Secretary of State but does not have a Commission certificate to provide pay telephone services.

On October 29, 1998, staff sent a letter to TriTel and informed the corporation that any pay telephone company that operates within the State of Florida must obtain a certificate of public convenience.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

On October 31, 1998, the customer provided additional information which included a copy of the information card that was affixed to TriTel's pay telephones using a certificate number from a company called MDS Payphone operated by Mark Stone. (Attachment A, Pg. 6)

On November 9, 1998, the Secretary of TriTel, Mark Stone, mailed a response denying that TriTel was operating as a pay telephone provider and that operations were accomplished by MDS Payphone (MDS) under Certificate No. 3250. Mr. Stone further responded as a "courtesy to the Commission", (Attachment B, Pg. 7) that he would include an application for a certificate to provide pay telephone service by TriTel, Inc.

On November 20, 1998, in regard to TriTel's application, staff wrote and again notified TriTel that it is not in compliance with Commission Rule 25-24.510, Florida Administrative Code.

On December 1, 1998, TriTel responded that it is not operating as a pay telephone provider and requests that the application be processed to certificate TriTel. Mr. Stone did not offer an explanation of why a second certificate is being sought.

Because it appears as though TriTel is currently operating without a certificate by virtue of the pay telephone identifying plate stating "This payphone is provided by TriTel, Inc.", staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission order TriTel to show cause why it should not be fined \$25,000 for apparent failure to comply with Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity?

RECOMMENDATION: Yes. Staff recommends the Commission should order TriTel to show cause in writing within 21 business days of the issuance of the Commission's order why it should not be fined \$25,000 for apparent operation without a certificate as required by Rule 25-24.510, Florida Administrative Code, Certificate of Public Convenience and Necessity. The company's response must contain specific allegations of fact or law. If TriTel fails to respond timely to this Show Cause Order, the fine shall be deemed assessed. If the fine is not paid within five business days after the expiration of the show cause response period after reasonable

collection efforts by the Commission, this matter shall be forwarded to the Office of the Comptroller for collection. If the fine is paid, it will be remitted by the Commission to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. (Williams)

STAFF ANALYSIS: Rule 25-24.510, Florida Administrative Code, states in part:

No person shall provide pay telephone Service without first obtaining a certificate of public convenience and necessity from the Commission.

All correspondence that staff has received such as contracts to provide pay telephone service, business cards (Attachment C, Pg. 8), and the public pay telephone information cards, refers to TriTel as the pay telephone provider. Mr. Stone denies that TriTel is providing telecommunication service. However, TriTel has applied for a certificate to operate as a pay telephone provider.

Further, on October 29, November 6, and November 20, 1998, staff requested TriTel to cease presenting itself as a telecommunications company and operate under Certificate No. 3250 as MDS. Mr. Stone has not complied.

Staff notes that TriTel could manage pay telephone operations such as installation and repair. However, TriTel is representing itself as the provider of service on the information placard. Commission Rule 25-24.515(5) states in part: The information placard must identify the name of the certificate holder. Attachment A clearly identifies TriTel as the service provider.

Therefore, based on all information staff has received, it appears TriTel is currently operating in violation of Rule 25-24.510, Florida Administrative Code, by offering telecommunications without a certificate.

Staff recommends that a fine of \$25,000 per violation for operating without a certificate is appropriate.

ISSUE 2: Should the Commission grant TriTel a certificate to provide pay telephone service?

RECOMMENDATION: Yes. Staff recommends that TriTel should be granted a certificate of public convenience and necessity.

STAFF ANALYSIS: TriTel has met all criteria as required by Rule 25-24.511, Florida Administrative Code. Therefore, staff recommends that granting a pay telephone certificate would be appropriate.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: If staff's recommendation in Issue 1 is approved, then TriTel will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed. If TriTel timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. The docket should also remain open to process any protest to Issue 2 that may be filed within 21 days of the issuance of the Order by a person whose substantial interest is affected by the Commission's Proposed Agency Action. (Miller, Peña)

Staff recommends that if TriTel fails to respond to the Order to Show cause, the fine will be deemed assessed. If the fine is not received within five business days after the expiration of the show cause response period, this matter should be forwarded to the Office of the Comptroller for collection. If no timely protest of Issue 2 is filed and TriTel fails to respond to the Order to Show Cause, this docket may be closed administratively.

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, then TriTel will have 21 days from the issuance of the Commission's show cause order to respond in writing why it should not be fined in the amount proposed. If TriTel timely responds to the show cause order, this docket should remain open pending resolution of the show cause proceeding. The docket should also remain open to process any protest to Issue 2 that may be filed within 21 days of the issuance of the Order by a person whose substantial interest is affected by the Commission's Proposed Agency Action.

THIS PAYPHONE IS NOT PROVIDED BY L.E.C.
This Payphone is managed by MDS Payphone
Sales: 305-962-6688 or 239-6688
P.O. Box 304891 • Margate, FL 33030-4891
TriTel, Inc.
This Payphone is provided by:
FCC Common Carrier Bureau, Mailstop 1800A2, Washington, DC 20554
FOR ASSISTANCE OR RATE INFORMATION DIAL "00"
TO USE ANOTHER LONG DISTANCE COMPANY DIAL
1 + 0 + 1 + CARRIER ACCESS CODE
INSIDE THIS CALLING ZONE
BellSouth Public Communications, Inc.
75 Bagby Drive • Homewood, AL 35209
Customer Service Dial 1-800-451-2648
OUTSIDE THIS CALLING ZONE
TO USE ANOTHER LONG DISTANCE COMPANY DIAL
1 + 0 + 1 + CARRIER ACCESS CODE
FOR ASSISTANCE OR RATE INFORMATION DIAL "00"
FCC Common Carrier Bureau, Mailstop 1800A2, Washington, DC 20554
This Payphone is provided by:

LONG DISTANCE OPERATOR DIAL "00"
LOCAL CALLS DIAL
"0" - AREA CODE + THE NUMBER
USE YOU TELEPHONE CALLING
CARD OR CALL COLLECT
**OUT OF
CHANGE?**
DAMAGING THIS TELEPHONE IS A FELONY
PUNISHABLE BY UP TO 5 YEARS IN PRISON
AND A FINE OF \$5,000.00 UNDER F.S. 806.13(1)

WARNING
DAMAGING THIS TELEPHONE IS A FELONY
PUNISHABLE BY UP TO 5 YEARS IN PRISON
AND A FINE OF \$5,000.00 UNDER F.S. 806.13(1)
**OUT OF
CHANGE?**
USE YOU TELEPHONE CALLING
CARD OR CALL COLLECT
LOCAL CALLS DIAL
"0" + AREA CODE + THE NUMBER
FOR ASSISTANCE OR RATE INFORMATION DIAL "00"
LONG DISTANCE OPERATOR DIAL "00"

THE PRESUBSCRIBED LONG DISTANCE
COMPANY FOR CALLS TO LOCATIONS:
INSIDE THIS CALLING ZONE
BellSouth Public Communications, Inc.
75 Bagby Drive • Homewood, AL 35209
Customer Service Dial 1-800-451-2648
OUTSIDE THIS CALLING ZONE
TO USE ANOTHER LONG DISTANCE COMPANY DIAL
1 + 0 + 1 + CARRIER ACCESS CODE
FOR ASSISTANCE OR RATE INFORMATION DIAL "00"
For information or to lodge a complaint:
FCC Common Carrier Bureau, Mailstop 1800A2, Washington, DC 20554
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TO INCREASE VOLUME
PRESS # BUTTON

LOCAL COIN CALLS 35¢ for 15 minutes Deposit coins before dialing NO CHANGE PROVIDED	LONG DISTANCE COIN CALLS Area Code+Number Calling Card, Collect & Person-to-Person Calls Area Code+Number Additional charges will apply	Emergency Dial Emergency Marque 911 You are calling from: 3059287
Directory Assistance Additional charges will apply Local 411 Long Distance Area Code+555-1212	Operator Assistance Dial "0" Repair Service Dial 211 Refunds Dial 211	Certificate Number 3250

TriTel, Inc.
P.O. Box 304891 • Margate, FL 33030-4891
Sales: 305-962-6688 or 239-6688
THIS PAYPHONE IS NOT PROVIDED BY L.E.C.

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PRESS # BUTTON

LOCAL COIN CALLS 35¢ for 15 minutes Deposit coins before dialing NO CHANGE PROVIDED	LONG DISTANCE COIN CALLS Area Code+Number Calling Card, Collect & Person-to-Person Calls Area Code+Number Additional charges will apply	Emergency Dial Emergency Marque 911 You are calling from: 3059464
Directory Assistance Additional charges will apply Local 411 Long Distance Area Code+555-1212	Operator Assistance Dial "0" Repair Service Dial 211 Refunds Dial 211	Certificate Number 3250

**TriTel, Inc.
P. O Box 934691
Margate, FL 33093**

November 9, 1998

Mr. Louis J. Yambor
Regulatory Analyst
Bureau of Service Evaluation
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: 225166L

Dear Mr. Yambor:

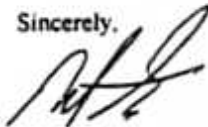
We received your letter, dated October 29, 1998, which asserts that TriTel, Inc. is operating as a pay telephone company within the State of Florida. TriTel, Inc. does not operate pay telephones, but owns the pay telephone equipment and the lease agreements. The pay telephones are operated by MDS Payphone, a licensed provider since 1992 (Certificate No. 3250).

We also received the enclosed Application Form for Authority to Provide Pay Telephone Service within the State of Florida. As a courtesy to the Commission, we have completed the application and are returning it to you along with this response.

If you have any questions, please write to me at:

**Mr. Mark Stone
Secretary
TriTel, Inc.
P. O. Box 934691
Margate, FL 33093**

Sincerely,



**Mark Stone
Secretary**

TriTel Inc.

ATTACHMENT C
DOCKET NO. 981592-TC
January 21, 1999

Date: Oct 10 98

VIA CERTIFIED U.S. MAIL RETURN RECEIPT REQUESTED

To: US PAYTEL Optima, LLC ³⁰⁵ 380-9691
P.O. BOX 560962 387-4467
Miami, FL 33256 387-4502
 385-7658

Cent # 5860

New Owner

Customer: X Miller Station LLC Aca 252
X 15198 SW 56 STREET
X Miami FL 33185

To Contract Department:

On X Oct 10 98 the above customer entered into a Pay Telephone Service Agreement with TriTel Inc. The customer represented to TriTel that it is a new owner and does not have, or has not assumed any existing agreements with any other provider of pay telephone service. Our survey disclosed that your company's name is affixed to the existing pay telephone equipment at the customers location.

Demand is hereby made that your company remove its pay telephone equipment at the customers location by 10 DAYS. In the event your company fails to remove its equipment by then, the customer will remove the equipment on your behalf.

Sincerely,

Mark Stone
President

X Guy Strampack
Customer

X GEORGE R. GIL
Print



TRITEL, INC.
Your Payphone Company

P. O. BOX 934691 MARGATE, FL 33093-4691 PH (305) 962-6688 / (305) 231-6688
CONTACT GUY STRAMPACK, ESP. 305-6688

MARK STONE
Sales Representative

Cellular (305) 962-6688
Beeper (305) 239-6688
Office (305) 477-5405