

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceedings against 1ST American Telecom, Inc. for apparent violation of Rule 25-24.910, F.A.C., Certificate of Public Convenience and Necessity Required, and Rule 25-4.043, F.A.C., Response to Commission Staff Inquiries.

DOCKET NO. 010017-TI
ORDER NO. PSC-01-1359-SC-TI
ISSUED: JUNE 21, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

ORDER TO SHOW CAUSE

BY THE COMMISSION:

BACKGROUND

On September 21, 2000, our staff received a call from a distributor regarding prepaid calling cards that were purchased from 1ST American Telecom, Inc. (1-AT). The caller claimed that the cards were inoperative and that 1-AT failed to refund his money. The customer was unable to provide a sample calling card. 1-AT is not certificated as a telecommunications company by this Commission.

On September 26, 2000, our staff, by certified letter (Attachment A) to Mr. Nicholas Ladas, President of 1-AT, requested information about the company's prepaid calling card operations and requested a written response by October 22, 2000.

DOCUMENT NUMBER-DATE

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FPSO-RECORDS/REPORTING

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On October 4, 2000, our staff received the U.S. Postal Service certified mail receipt indicating 1-AT received the letter on October 2, 2000. On November 3, 2000 through November 12, 2000, our staff attempted to contact Mr. Ladas via telephone on four separate occasions.

On November 20, 2000, our staff sent a second certified letter (Attachment B) to 1-AT and requested a written response by December 8, 2000. On November 28, 2000, our staff received the U.S. Postal Service certified mail receipt indicating 1-AT received the letter on November 24, 2000.

On December 8, 2000, a representative from 1-AT contacted our staff and stated that the company was in the process of applying for a certificate. Our staff requested that 1-AT provide a written response outlining its intentions. On December 27, 2000, having received no response from 1-AT, our staff contacted 1-AT to inquire about the status of its application.

On January 2, 2001, our staff opened this docket to initiate show cause proceedings against 1-AT for the apparent violation of Rules 25-24.910, and 25-4.043, Florida Administrative Code.

January 8, 2001, in continuing its investigation, our staff called 1-AT in an attempt to acquire a sample prepaid calling card. A company representative agreed to send our staff a letter describing the company's operations and also agreed to send samples of 1-AT's prepaid calling cards by January 19, 2001.

On February 5, 2001, our staff visited 1-AT's office and obtained two prepaid calling cards (Attachment C). One is titled "Premier Penny" and the other is titled "Dollar Saver". The back of both cards stated "Services provided for 1ST American Telecom, Inc." 1-AT stated that it uses three network service providers; NaTel, Network Communications, and Justice Telecom. NaTel has indicated that it is the network provider for the Premier Penny calling card.

On February 9, 2001, our staff contacted 1-AT to determine the network provider for the Dollar Saver calling card. A company representative stated that MCI is the network provider.

On February 22, 2001, our staff sent a letter to MCI requesting information pertaining to the Dollar Saver calling card and whether MCI is the network provider. On March 30, 2001, MCI provided that the Dollar Saver calling card is not theirs. MCI is selling access to another carrier. On April 12, 2001, our staff received a call from Mr. Ladas of 1-AT. He explained that 1-AT is a wholesaler and does not require a certificate. He further stated that he would send a letter explaining his company's position. As of May 29, 2001, our staff has not received any written correspondence from 1-AT. This Commission is vested with jurisdiction over these matters pursuant to Sections 364.183, 364.285, 364.335, and 364.337, Florida Statutes.

SHOW CAUSE

Rule 25-24.910, Florida Administrative Code, states:

A company shall not provide prepaid calling services without first obtaining a certificate of public convenience and necessity as a local exchange company, alternative local exchange company, or interexchange company.

Upon receiving a call from a distributor, complaining that 1-AT did not refund his money after he had returned unusable prepaid calling cards, our staff proceeded to investigate 1-AT. To date, our staff has determined the following:

- 1-AT is offering prepaid calling cards for sale to Florida consumers and distributors through its Internet web site <http://www.1americantelecom.com>.
- 1-AT is offering "instant pin numbers" for access to prepaid calling card services on its Website. Currently, 1-AT's Website does not list any other service providers for the calling cards or pin numbers it solicits. To an end user, 1-AT appears to be the provider for the products it sells.
- 1-AT does not have a Certificate in its name (1ST American Telecom, Inc.) to provide prepaid calling card services in the State of Florida.

- 1-AT's Website indicates that the company does have and utilizes telecommunications and switching equipment.
- 1-AT personnel have indicated that it provides MCI service through its Dollar Saver calling card but does not appear to have a contractual relationship with MCI to distribute MCI's prepaid calling card services. Moreover, MCI has indicated that they do not provide prepaid calling services through the access number printed on the back of the Dollar Saver card (1-888-412-4415).
- The printing on the back of the Dollar Saver calling card states that services are provided for 1ST American Telecom, Inc. However, 1-AT has not disclosed the network provider for the card.

Furthermore, in a page on 1-AT's Website (Attachment D), there is a list of the company's personnel with an image that states, "1-AT's Information Technology Department oversees state-of-the-art telecommunications hardware and switching equipment." Notwithstanding, Mr. Ladas, has indicated that he believes that his company does not require a certificate. However, his company has not provided staff with the pertinent information to support his assertions.

Based on the chronological events outlined in the case background and the information posted on 1-AT's Website, 1-AT may be providing telecommunications services in Florida without a certificate. Therefore, we find that 1-AT's apparent violation of Rule 25-24.910, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes. In Order No. 24306, issued April 1, 1991, in Docket No. 890216-TL, In re: Investigation Into The Proper Application of Rule 25-14.003, F.A.C., Relating To Tax Savings Refund for 1988 and 1989 For GTE Florida, Inc., having found that the company had not intended to violate the rule, the Commission nevertheless found it appropriate to order it to show cause why it should not be fined, stating that "In our view, willful implies intent to do an act, and this is distinct from intent to violate a rule." Thus, any intentional act, such as 1-AT's conduct at issue here, would meet the standard for a "willful violation."

By Section 364.285, Florida Statutes, the Commission is authorized to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of the Commission, or any provision of Chapter 364. Utilities are charged with knowledge of our rules and statutes. Additionally, "[i]t is a common maxim, familiar to all minds, that 'ignorance of the law' will not excuse any person, either civilly or criminally." Barlow v. United States, 32 U.S. 404, 411 (1833).

Accordingly, 1-AT is hereby ordered to show cause in writing within 21 days of the issuance of this Order why it should not be fined \$25,000 for apparent violation of Rule 25-24.910, Florida Administrative Code. The company's responses shall contain specific allegations of fact and law. If 1-AT fails to respond to the show cause order or request a hearing pursuant to Section 120.57, Florida Statutes, within the 21-day response period, the facts shall be deemed admitted, the right to a hearing waived, and the fine shall be deemed assessed. If 1-AT pays the fine, it shall be remitted to the State of Florida General Revenue Fund. If the company fails to respond to the Order to Show Cause, and the fine is not paid within ten business days after the expiration of the show cause response period, it shall be forwarded to the Office of the Comptroller for collection.

Rule 25-4.043, Florida Administrative Code, states:

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.

As stated in the Background, our staff sent two certified letters to 1-AT, one on September 26, 2000, and again on November 20, 2000. On December 8, 2000, our staff received a phone call from 1-AT in response to the certified letters. 1-AT indicated it would fill out the application for a certificate and submit it to this Commission. To date, our staff has not received an application from 1-AT.

During two subsequent phone conversations on January 8, 2001, and again on April 12, 2001, 1-AT personnel indicated the company would provide the appropriate information in response to our staff inquiries. To date, our staff has not received any written correspondence from 1-AT.

1-AT has had an adequate opportunity to respond to our staff inquiries, yet the company has failed to provide the necessary information. Therefore, we find that 1-AT's apparent violation of Rule 25-4.043, Florida Administrative Code, has been "willful" in the sense intended by Section 364.285, Florida Statutes. Furthermore, Section 364.285, Florida Statutes, authorizes this Commission to impose upon any entity subject to its jurisdiction a penalty of not more than \$25,000 for each offense, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of this Commission, or any provision of Chapter 364.

Accordingly, 1-AT is hereby ordered to show cause in writing within 21 days of the issuance of this Order why it should not be fined \$10,000 for failure to provide access to information in accordance with Rule 25-4.043, Florida Administrative Code. 1-AT's response shall contain specific allegations of fact and law. If 1-AT fails to respond to the show cause order or request a hearing pursuant to Section 120.57, Florida Statutes, within the 21-day response period and the fine is not paid within ten business days after the 21-day response period, the facts shall be deemed admitted, the right to a hearing shall be deemed waived, and the fine shall be deemed assessed. If the fine is paid, it shall be remitted to the State of Florida General Revenue Fund. If the fine is not received within ten business days after expiration of the show cause response period, it shall be forwarded to the Office of the Comptroller for collection.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that 1ST American Telecom, Inc. shall show cause in writing within 21 days of the date of this Order to Show Cause why it should not be fined \$25,000, for apparent violation of Rule 25-24.910, Florida Administrative Code. It is further

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ORDERED that 1ST American Telecom, Inc. shall show cause in writing within 21 days of the date of this Order to Show Cause why it should not be fined \$10,000, for apparent violation of Rule 25-4.043, Florida Administrative Code. It is further

ORDERED that any response to the Order to Show Cause filed by 1ST American Telecom, Inc. shall contain specific allegations of fact and law. It is further

ORDERED that failure to respond to this Order to Show Cause in the manner and by the date set forth in the "Notice of Further Proceedings or Judicial Review," attached hereto, shall constitute an admission of the violations described in the body of this Order to Show Cause, as well as a waiver of the right to a hearing, and will result in the automatic assessment of the fine. It is further

ORDERED that if 1ST American Telecom, Inc. pays the fines, they shall be remitted to the State of Florida General Revenue Fund pursuant to Section 364.285, Florida Statutes. It is further

ORDERED that in the event 1ST American Telecom, Inc. fails to respond to this Order to Show Cause and the fines are not received within ten business days after the expiration to the show cause response period, they should be forwarded to the Office of the Comptroller for collection and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 21st day of June, 2001.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

JKF

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 12, 2001.

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 and a default pursuant to Rule 28-106.111(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.

STATE OF FLORIDA

Commissioners:
J. TERRY DEASON, CHAIRMAN
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ



DIVISION OF COMPETITIVE SERVICES
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

September 26, 2000

CERTIFIED

Mr. Nicholas Ladas, President
1ST American Telecom, Inc.
1821 NE 146th Street
Miami, FL 33181-1423

Re: Certification requirement in the State of Florida.

Dear Mr. Ladas:

It has come to my attention that your company, 1ST American Telecom, Inc. (1AT), may be providing pre-paid calling services to distributors and end users in the State of Florida. According to Florida Public Service Commission Rules, a company providing PPCS in the State of Florida may not do so without first obtaining a certificate. Rule 25-24.910, Florida Administrative Code, Certificate of Public Convenience and Necessity Required, states in part:

"A company shall not provide Prepaid Calling Services (PPCS) without first obtaining a certificate of public convenience and necessity as a local exchange company, alternative local exchange company, or interexchange company."

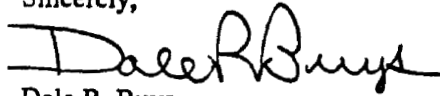
A copy of the rules pertaining to the provision of PPCS and an application package for an Interexchange Certificate of Public Convenience and Necessity have been enclosed for your review. If you believe that 1AT is exempt from certification, please provide me with the appropriate justification; citing specific facts, rules, and statutes that support your argument.

Please provide a written response to the Public Service Commission by October 22, 2000, by either, (1) completing the application and submitting it to the address indicated in the application, or (2) sending a letter to me citing the reasons 1AT is not required to obtain a certificate.

Nicholas Ladas, President
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Also, please send me copies (front and back) of the pre-paid calling cards IAT sells, and provide me with the names of the network service providers used for each card. Should you have any questions or concerns, please call me at (850) 413-6536.

Sincerely,



Dale R. Buys
Regulatory Analyst
Bureau of Service Quality

Cats # 337593C

DRB/drb

Enclosures (2):

1. Copy of Rules 25-24.900-940, Florida Administrative Code.
2. IXC Certificate Application Package.

STATE OF FLORIDA

Commissioners:
J. TERRY DEASON, CHAIRMAN
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ



DIVISION OF COMPETITIVE SERVICES
WALTER D'HAESELEER
DIRECTOR
(850) 413-6600

Public Service Commission

November 20, 2000

CERTIFIED

Mr. Nicholas Ladas, President
1ST American Telecom, Inc.
1821 NE 146th Street
Miami, FL 33181-1423

Re: Certification requirement in the State of Florida.

Dear Mr. Ladas:

On September 26, 2000, I sent a certified letter to you inquiring about 1ST American Telecom, Inc.'s position on obtaining a Certificate of Public Convenience and Necessity from the Florida Public Service Commission. The certified letter receipt (green card) was signed by the receiving party on October 2, 2000. As of November 20, 2000, I have not received a reply. In addition, I have attempted to call you on the days of November 3, 6, 8, and 12. On November 3 and 8, the receptionist informed me that you were not in. On November 6 and 12, the receptionist transferred me to your extension, but I was unable to leave a message because your voice mail box was full.

Mr. Ladas, I would like to give you another opportunity to respond to my previous inquiry and explain your position on the issues addressed in that letter. I reiterate that I believe 1ST American Telecom, Inc. is providing pre-paid calling services to distributors and end users in the State of Florida without a certificate. If I am mistaken, please explain why 1ST American Telecom, Inc. does not require a certificate to provide those services. I am enclosing a copy of the first letter I sent to you on September 26, 2000, addressing the aforementioned issues.

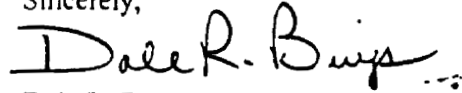
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ATTACHMENT B
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Nicholas Ladas, President
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Please provide me with a written response to this second inquiry by December 8, 2000.
Should you have any questions, please call me at (850) 413-6536.

Sincerely,



Dale R. Buys
Regulatory Analyst
Bureau of Service Quality

Cats # 337593C

Enclosure: Copy of letter dated September 26, 2000.

Dial 1-888-215-9695

1. Marque 1-888

Enter Pin
Number

PIN: 337 551 3235 \$5

2. Marque el
Numero F

Dial 1-888-386-2835 for Customer service
To call a number in the U.S., Canada, or the caribbean
press 1, the area code and the telephone number.
To make an international call, press 011, the country
code, city code, and telephone number. To make another
call press * and don't hang up.

Marque 1-877-227-6180 para servicio al cliente
Para llamar domesticas marque 1 codigo del area y e.
numero telefonico.
Para llamar internacional, marque el 011, codigo del
el codigo de la ciudad y el numero de teléfono.
Para hacer otra llamada no cuelque, presione el *
Inventory control number/Codigo

Premier Penny

Lot # PP1 18298361

Read and agree to terms before purchase. Non-
refundable. Non-rechargeable. Domestic calls \$.45 connection.
International calls \$1-\$3 connection. No monthly fee. All calls
billed in 1 minute increments. All calls made from public pay
phones will be subject to a \$.49 additional fee for mandated
FCC "dial-around" charge. Additional user fees will apply.
Rates & surcharges will change without notice. Services provided
for 1st American Telecom, Inc. Card expires 6 months
after 1st use. Stated minutes less fees=actual talk minutes.
Unusable funds are forfeited.

Previa adquisición, leer y aceptar condiciones. Servicio prop
cionado por 1st American Telecom, Inc. Conexión por llama
das domestica \$.45. Por llamada internacional \$1-\$3.
Todas las llamadas están en incrementos de 1 minuto.
Llamadas en teléfonos públicos tienen uncargo de \$.49 adi
cional según regulación de FCC. No se aceptan devolucion
Tarjeta no es recargable. Tarifas y otros cargos sujetos a ca
bio sin previo aviso. Esta tarjeta expira 180 días después d
su primer uso. Minutos anunciados menos cargos= total de
minutos hablados. Crédito no usado será perdido.

1. Dial 1-888-442-4415

1. Marque 1-888-443-448

2. Enter PIN
number



2. Marque e
numero PIN

To call a number in th U.S., Canada, or the caribbean
press 1, the area code and the telephone number.
To make an international call, press 011, the country
code, city code, and telephone number.
To make another call press * and don't hang up.
Dial 1-800-463-6175 for customer service.

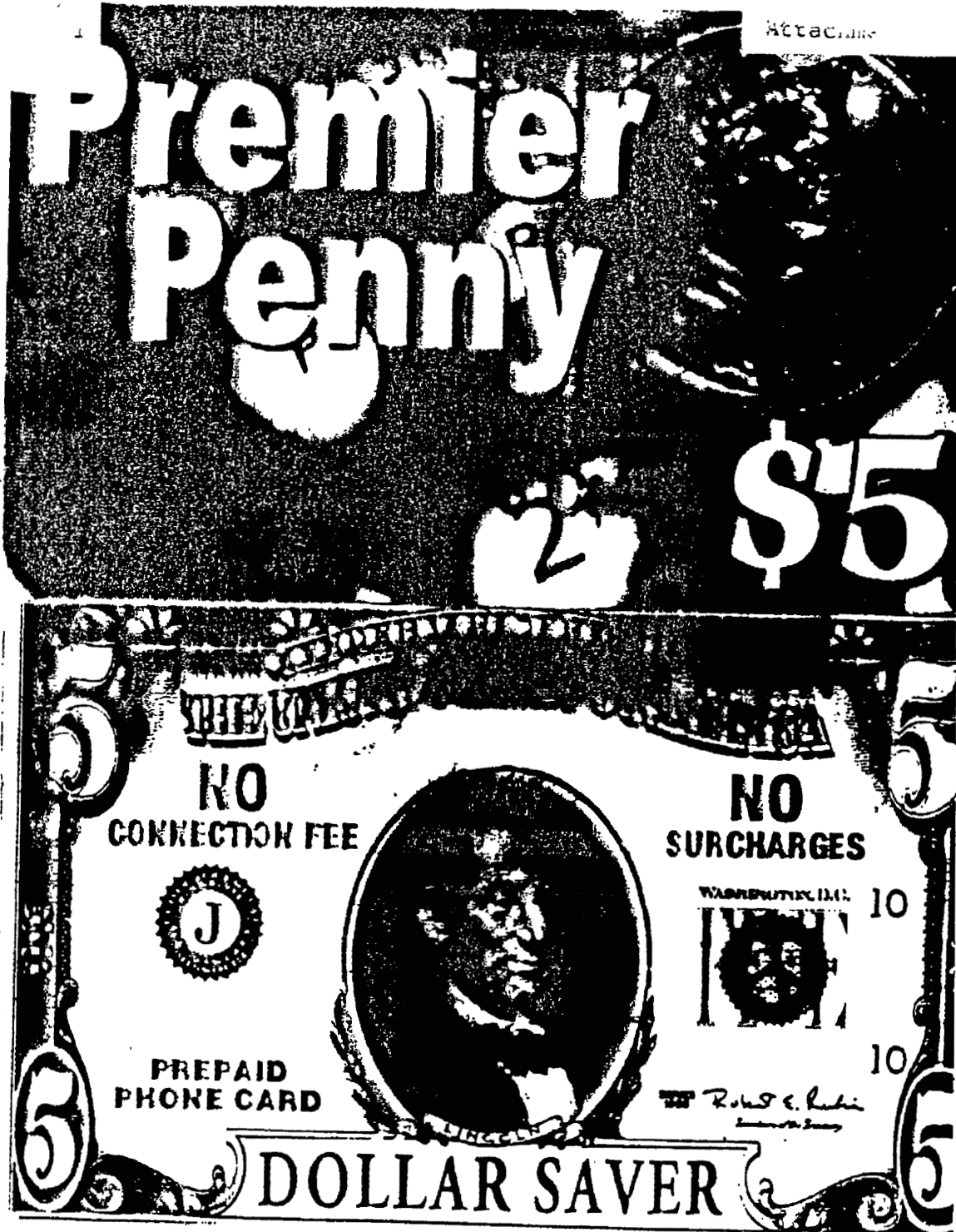
Para llamar domesticas marque 1 codigo del
area y el numero telefonico.
Para llamar internacional, marque el 011, codig
del país, el codigo de la ciudad y el numero tele
Para hacer otra llamada no cuelgue, presione el *
Marque 1-800-463-6175 service a caliente.
Inventory control number/Codigo

Dollar Saver

4943 / 60001

No connection charges. All calls billed in 1 minute increments.
All calls made from public pay phones may be subject to a \$.49
additional fee for mandated FCC "dial-around" charge. Monthly
service fee of \$.49 and additional taxes may apply. Non-
refundable. Rates & surcharges may change without notice.
Services provided for 1st American Telecom, Inc. Card expires
90 days after last use.

Sin conecciones. Todas las llamadas sacturan en incre
mentos de 1 minuto. Llamadas de telefonos publicos
puden tener una sobre carga adicional de \$.49 por cada
llamada. Cobro de servicio mensual \$.49. No reembolso.
Cargo de acceso y precio sujetos a cambio sin previo avit
Esta tarjeta expira 90 dias despues del ultima uso.





Become a preferred phone card

Distributor or Retailer

Products Press Release **HOME NEWS**
 Instant Pins Solutions About IAT

Consumers speak for us... Our products lead the way

[Home](#) [Rates Charts](#) [Affiliations](#) [E-Mail IAT](#)

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IAT Personnel



IAT's Information Technology department oversees state-of-the-art telecom hardware and switching equipment.

- Order right now!
-
- Instant Pins
- On-Line
-
-
- [Company Profile](#)
- [Mission Statement](#)
- [IAT Goals](#)
- [Solutions On-Line](#)
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- [Upcoming Trade Shows](#)
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- [*Rates Chart](#)
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- [International](#)

President	John J. ...
President, Sales & Marketing	...
President, Distribution	...
President, International/Corporate	...
Director, Marketing	...
Manager, Activation	...
Manager, Billing	...
Director, Human Resources	...
Director, MIS	...
Manager, Data Entry	...
Manager, Shipping	...
Director, Application	...
Consultant, Internal/Community	...
National Account Executive	...
National Account Executive	...
Manager, Warehouse	...
IAT Personnel Assistant, Shipping	...