

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause) DOCKET NO. 910663-TC
proceedings against COMTEL OF) ORDER NO. 24975
JACKSONVILLE, INC. for violation of) ISSUED: 8/26/91
Commission rules.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
BETTY EASLEY
MICHAEL MCK. WILSON

ORDER TO SHOW CAUSE WHY CERTIFICATE NO.
2434 SHOULD NOT BE CANCELED OR A
FINE IMPOSED FOR VIOLATION OF RULES
REGULATING TELECOMMUNICATIONS COMPANIES

BY THE COMMISSION:

Comtel of Jacksonville, Inc. (Comtel) has been a certificated pay telephone service (PATS) provider since February 28, 1990. Comtel currently operates approximately 121 pay telephones in Florida. As a certificated PATS provider, Comtel is subject to our jurisdiction.

On April 19, 1991, a complaint was filed against Comtel with the Division of Consumer Affairs (Consumer Affairs). The complainant indicated that he lost \$.25 in a pay telephone operated by Comtel, and he was unable to obtain a refund because the dialing instructions were invalid. The inability of the customer to receive a refund in addition to being charged for an incomplete call is a violation of Rule 25.24.515(2) and Rule 25-24.515(4) F.A.C. which state:

Rule 25-24.515(2) Each telephone station shall return any deposited amount if the call is not completed, except messages to a Feature Group A access number.

Rule 25-24.515(4) Each telephone station shall, without charge, permit access to local directory assistance and the telephone number of any person responsible for repairs or refunds but may provide access by coin return....

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Consumer Affairs requested a response to the complaint by May 7, 1991. A response was not received, so staff left a message for Mr. Ron Dicara, Vice President of Comtel, on May 15, 1991. No response has been received from Mr. Dicara or any other representative of Comtel regarding the complaint.

On April 23, 1991, the Division of Communications (Communications) sent a notice to Mr. Dicara indicating that service evaluations had been performed on six pay phones operated by Comtel. The letter requested corrective action and a response within fifteen (15) calendar days. However, a response was not received and a certified letter dated May 15, 1991 was sent to Comtel; no response to either communication has been received.

The service evaluation indicated that all six pay telephones were blocking access to at least one long distance carrier. Failure to provide access to all locally available interexchange carriers is a violation of Rule 25-24.515(6) which provides:

Rule 25-24.515(6) Each telephone station which provides access to any interexchange company must provide access to all locally available interexchange companies.

Comtel, in compliance with Rule 25-24.515(c), indicated in its original pay telephone applications that it would allow equal access to all long distance carriers.

The service evaluation also revealed that on four out of the six pay phones evaluated instructions for obtaining refunds/repairs were not displayed. Also, the service evaluation indicated that on three of the pay phones the telephone number plate was not displayed. Failure to provide this information is a violation of Rule 25-24.515(5) which provides:

Rule 25-24.515(5) Each telephone station shall be equipped with a legible sign, card or plate of reasonable permanence which shall identify the following: telephone number and location address of such station, name or recognizable logo of the owner and the party responsible for repairs and refunds, address of responsible party, free phone number of responsible party, clear dialing instructions (including notice of the lack of availability of local or toll services), and, where applicable, a statement that the phone is not maintained by the local exchange company.

Finally, on May 1, 1991, a complaint was filed against Comtel with Consumer Affairs regarding the inability of the customer to access the AT&T operator. Consumer Affairs requested a response to the complaint by May 17, 1991; however, a response was not received. Staff left a message for Mr. Dicara on May 20, 1991 and sent a certified letter on May 22, but a response to the complaint has not been received.

Failure of a certificated utility to respond to any communication from staff is a violation of Rule 25-24.515 which provides:

Rule 25-24.515

Response to communication staff initiates...
this information...
provided by the...
received by the...
initiated in writing within fifteen (15) days from the date of the communication inquiry.

Given the disregard for the Rules regulating PATS providers demonstrated by Comtel and based upon the lack of action taken by Comtel to respond to service evaluation notices and complaints, we find it appropriate to require Comtel show cause why its Certificate No. 2434 should not be canceled or in the alternative, why it should not pay a fine for violation of the rules regulating PATS providers.

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Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Comtel of Jacksonville, Inc. shall show cause why its Certificate No. 2434 should not be canceled or be subject to a fine for failure to comply with Rules 25-4.043, 25-24.515(2), 25-24.515(4), 25-24.515(5), and 25-24.616(6), Florida Administrative Code. It is further

ORDERED that if Comtel of Jacksonville, Inc. fails to respond to this Order pursuant to the requirements set forth below, Certificate No. 2434 shall be canceled and this docket shall be closed. It is further

ORDERED that if Comtel of Jacksonville, Inc. responds to this Order, this docket shall remain open pending resolution of the show cause process.

By ORDER of the Florida Public Service Commission, this 26th day of AUGUST, 1991.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

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

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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) 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 9/16/91.

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 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.

MEMORANDUM

August 21, 1991

TO : DIVISION OF RECORDS AND REPORTING
FROM : DIVISION OF LEGAL SERVICES (ADAMS)
RE : DOCKET NO. 910663-TC

JKA TR

24925

Attached is an ORDER TO SHOW CAUSE WHY CERTIFICATE NO. 2434 SHOULD NOT BE CANCELED OR A FINE IMPOSED FOR VIOLATION OF RULES REGULATING TELECOMMUNICATIONS COMPANIES in the above-referenced docket, which is ready to be issued.

JKA/ttl
Attachment
cc: Division of Communications

910663a.ttl

*response
due 9-16-91*