

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 951085-TX
certificate to provide) ORDER NO. PSC-95-1336-FOF-TX
alternative local exchange) ISSUED: November 1, 1995
telecommunications service by)
Data and Electronic Services,)
Inc.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING CERTIFICATE TO PROVIDE ALTERNATIVE
LOCAL EXCHANGE TELECOMMUNICATIONS SERVICE

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 a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On September 11, 1995, Data and Electronic Services, Inc. (DES) filed an application to provide alternative local exchange telecommunications service pursuant to Section 364.337(1), Florida Statutes. Section 364.337(1), Florida Statutes, requires us to grant a certificate to provide alternative local exchange telecommunications service upon a showing that the applicant has sufficient technical, financial, and managerial capability to provide such service in the geographic area proposed to be served.

Upon review of DES's application, we find that DES has sufficient technical, financial, and managerial capability to provide alternative local exchange telecommunications service. DES currently holds Certificate of Public Convenience and Necessity No. 4086 to provide shared tenant services. A review of DES's unaudited financial records filed with its application showed DES to be financially sound. These reports are unaudited and do not contain any disclosures that could change our opinion of the

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company's financial position. However, we find the analysis to be appropriate since DES stated in the application it would not collect deposits or advance payments and no customer-provided funds are at risk.

Therefore, we grant DES Certificate No. 4096 to provide alternative local exchange telecommunications service. DES should retain this Order as evidence of certification by this Commission.

The authority granted by this certificate is statewide, except as limited by Section 364.337(1), Florida Statutes. Alternative local exchange telecommunications providers (ALECs) may not provide basic local telecommunications services within the territory served by a company subject to Chapter 364.051, Florida Statutes, prior to January 1, 2001, unless the small local exchange telecommunications company elects price regulation.

ALECs may not begin operation until January 1, 1996. Companies are required to comply with Chapter 364, Florida Statutes, Chapters 25-22 and 25-24, Florida Administrative Code, and other Rules and Orders lawfully promulgated by this Commission.

To ensure that Florida end users are allowed high quality access to emergency services, Section 364.337(2), Florida Statutes, provides that each ALEC that provides basic local telecommunications service must provide access to 911 services. We find that the statute requires that ALECs that provide basic local telecommunications services must provide access to 911 services at the same level as access provided by the local exchange company (LEC) serving the same area.

We have no specific rules on what a LEC or an ALEC must provide in terms of 911 service access. This could result in an ALEC offering access to 911 service which is inferior in some way to the 911 service access provided by the LEC in that same area. For example, a LEC might provide both automatic number identification and automatic location information to the public service answering point while the ALEC might only provide the telephone number of the calling party. Inferior 911 access could result in death or serious injury. Although the issue of 911 access may be resolved in other dockets, we believe ALECs should be put on notice that 911 service must be at a level equivalent to that provided by the LEC serving that same area.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Data and Electronic Services, Inc. is hereby granted a certificate to operate as an alternative local exchange telecommunications company effective January 1, 1996. It is further

ORDERED that Data and Electronic Services, Inc. must provide the same access to 911 emergency services as provided by the local exchange company serving the same area. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 1st day of November, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

LMB

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 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 22, 1995.

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.

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 substantially 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 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. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.