

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for waiver of) DOCKET NO. 961303-TC
Rules 25-24.515(7) and 25-) ORDER NO. PSC-97-0143-FOF-TC
24.620(2)(c) and (d), F.A.C.,) ISSUED: February 11, 1997
regarding 0- and 0+ IntraLATA)
traffic by Peoples Telephone)
Company, Inc.)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER PETITION

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.

I. Peoples's Waiver Request

Peoples Telephone Company, Inc. (Peoples) holds pay telephone certificate no. 84 with an effective regulation date of March 14, 1985, and interexchange carrier (IXC) certificate no. 2995 issued in 1992. On October 29, 1996, Peoples filed a Petition for a waiver of those rules and policies currently prohibiting it from providing 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement facilities it serves. Peoples does not intend to offer basic local service and therefore, does not seek certification as an alternative local exchange company. The Company seeks only to offer the provision of operator assisted local calls originating from payphone locations in confinement facilities it serves solely to improve the pay telephone services it provides.

II. History of the Policy

We have already issued Order No. PSC-96-0884-FOF-TP implementing 1+intraLATA competition via presubscription for non-

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LEC pay telephone providers and call aggregators. The Commission has also granted exemptions to allow five other pay telephone providers to handle 0+local and intraLATA traffic in confinement facilities (951198-TC, 951546-TP, 960407-TC, 960570-TC and 960603-TC). Three small rate-of-return regulated LECs (Quincy Telephone Company, Alltel Florida, Inc., and Indiantown Telephone System, Inc.) filed protests to the Orders granting those exemptions and all five dockets have been scheduled for hearing.

There seems to be no compelling reason to continue the prohibition against pay telephone providers in confinement facilities handling local and intraLATA calls on a collect basis since Florida Statutes have been amended to permit competition for local telephone service, and we have been instructed to encourage such competition. Section 364.01(4)(e), Florida Statutes instructs us to "Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints." Section 364.01(4)(f), Florida Statutes instructs us to "Eliminate any rules and/or regulations which will delay or impair the transition to competition."

III. Conclusion

Allowing Peoples to handle local and intraLATA 0+ calls from confinement facilities will facilitate competition as the company will be able to more effectively compete for those sites where the traffic is predominately local and intraLATA. Peoples is capable of providing 0+ local and 0+ intraLATA service immediately as the technology is already in place within the pay telephone.

Therefore, we grant Peoples's Petition for exemption from Rule 25-24.515(7), and Rule 25-24.620(2)(c) and (d) Florida Administrative Code, and the policies contained in Orders Nos. 95-0918, 95-0203, and 24101 to permit it to handle and bill 0+ local and 0+ intraLATA calls from pay telephones located in confinement facilities. For these services, Peoples shall charge no more than the rates charged by the serving local exchange company for the same call.

This docket should be closed unless a person whose substantial interests are affected by our decision files a protest within 21 days of the issuance of this Order. We have approved similar requests from five other pay telephone providers. Those decisions were protested by three of the rate of return regulated LECs. We find Peoples shall not be prohibited from carrying this traffic in a LEC's territory if that LEC does not protest our action. Accordingly, a protest filed by a local exchange company shall be applicable only to that local exchange company's territory and

shall not prevent Peoples from carrying this traffic in a non-
protesting LEC's territory.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Peoples Telephone Company, Inc.'s Petition for exemption from Rule 25-24.515(7), and Rule 25-24.620(2)(c) and (d) Florida Administrative Code, and the policies contained in Orders Nos. 95-0918, 95-0203, and 24101 to permit it to handle and bill 0+ local and 0+ intraLATA calls from pay telephones located in confinement facilities, is granted as described in the body of this Order. It is further

ORDERED that Peoples Telephone Company, Inc. shall charge no more than the rate charged by the serving local exchange company for 0+ intraLATA and 0+ local calls. 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, this docket shall be closed. It is further

ORDERED that a protest filed by a local exchange company shall only be applicable to that local exchange company's territory and shall not prevent Peoples Telephone Company, Inc. from handling this traffic in the territory of a local exchange company that does not protest this Order.

By ORDER of the Florida Public Service Commission, this 11th
day of February, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay J. [Signature]
Chief, Bureau of Records

(S E A L)

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Commissioner Susan F. Clark dissents from the Commission's decision
in this docket.

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.

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 March 4, 1997.

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.