

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of PEOPLES TELEPHONE)	DOCKET NO. 891301-TC
COMPANY , INC. for waiver of Rule)	
25-24.515(3), (4) and (6), F.A.C.,)	ORDER NO. 22450
regarding pay telephone service)	
_____)	ISSUED: 1-23-90

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING RULE WAIVER

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

Peoples Telephone Company, Inc. (Peoples or the Company) is a certificated nonLEC (non-local exchange company) pay telephone service (PATS) provider in Florida. PATS providers are subject to the provisions of Rules 25-24.505 through 25-24.520, Florida Administrative Code, as well as our decisions in Dockets No. 860723-TP and 871394-TP, among others.

Currently, Peoples provides pay telephone service to the Dade Correctional Institute (DCI). As the result of a complaint filed with our Division of Consumer Affairs (CAF) in October, 1989, we became aware that Peoples' pay telephones for inmate use at the DCI were blocking access to 911, local directory assistance, and all locally available interexchange carriers (IXCs) other than the presubscribed IXC for that location. This blocking is inconsistent with the requirements of Rule 25-24.515(3), (4) and (6), Florida Administrative Code. Presently, the only restriction authorized for these telephones is a fifteen (15) minute durational limit on local calls, pursuant to Order No. 19442.

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In response to contact from our CAF staff, Peoples stated that it immediately reprogrammed the phones in question to allow access to 911 and local directory assistance. However, because of what it views as serious fraud exposure, Peoples continues to block access to all but the presubscribed IXC, although the Company has ceased billing the up to one dollar nonLEC PATS surcharge in this location. Apparently, subsequent to the initiation of service at the DCI, the DCI requested and Peoples implemented the three types of blocking. Peoples asserts that it is unable to verify the exact factual circumstances because the DCI request was made verbally to and implemented by a Peoples employee who is no longer with the Company. Peoples also states that the DCI has requested that all three forms of blocking be continued because unrestricted service causes problems for local fire, police, and telephone companies.

To solve these problems, Peoples has proposed placing two types of pay telephones in each barrack: a coin payphone and a "charge-a-call" phone. The only type of call permitted from the coin payphone would be a local call with a fifteen (15) minute durational limit, with a twenty-five cent (\$.25) charge. The "charge-a-call" phones would be presubscribed to International Telecharge, Inc. (ITI). The inmates would not be able to access any other locally available IXC. ITI would handle the interLATA calls, while intraLATA calls would be handled by the LEC, in accordance with Order No. 20489. Additionally, Peoples would deny the inmates access to repair, 911, and 411 services at both types of telephones. In order for Peoples to provide the restricted telephone service described above, a waiver of Rule 25-24.515(3), (4) and (6), Florida Administrative Code, would be necessary. Peoples has requested such a waiver.

By Order No. 21221, issued May 11, 1989, we granted SouthernNet Services, Inc. a waiver of Rule 25-24.515(6), Florida Administrative Code. By Order No. 21525, issued July 10, 1989, we granted Phone Control Security, Inc. a waiver of Rule 25-24.515(3), (4) and (6), Florida Administrative Code. By Order No. 21767, issued August 22, 1989, a waiver of Rule 25-24.515(3), (4) and (6), Florida Administrative Code, was also granted to Communications Central, Inc. In all three of these Orders, the waiver was limited to those pay telephones placed in penal institutions for the use of inmates.

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Upon consideration, we find it appropriate to grant Peoples' rule waiver request. However, consistent with our prior decisions in Orders No. 21221, 21525, and 21767, discussed above, this waiver shall apply only to pay telephones in penal institutions and shall include only those restrictions set forth above. Any other pay telephones installed by Peoples shall continue to be subject to all our requirements for pay telephone service.

In addition, because the inmates will be restricted to only one IXC, Peoples shall not be permitted to charge more than the ATT-C Direct Distance Dialing (DDD) time-of-day rate, plus applicable operator charges, for interexchange calls placed by the inmates. This means Peoples will not be allowed to bill the additional charge of up to one dollar that we normally allow nonLEC PATS providers to charge. We believe it is necessary to limit the rates where the billed party has no choice of interexchange carrier. This limitation is consistent with our prior actions concerning pay telephones located in penal institutions. As we noted above, Peoples states it has already implemented this provision at the DCI pay telephones.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that Peoples Telephone Company, Inc.'s request for waiver of Rule 25-24.515(3), (4) and (6), Florida Administrative Code, is hereby granted as set forth in the body of this Order. It is further

ORDERED that Peoples Telephone Company, Inc. shall not charge more than the AT&T Communications of the Southern States, Inc. Direct Distance Dialing time-of-day rate, plus applicable operator charges, for interexchange pay telephone calls placed from penal institutions, as set forth herein. It is further

ORDERED that the effective date of our action described herein is the first working day following the date specified below, if no protest to this Proposed Agency Action is filed within the time frames set forth below.

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By ORDER of the Florida Public Service Commission,
this 23rd day of JANUARY, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

ABG

by: Kay Flynn
Chief, Bureau of Records

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 at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on February 13, 1990.

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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, and as reflected in a subsequent order.

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