

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for exemption under)	DOCKET NO. 900563-TC
or waiver of Commission Rule 25-24.515(7),)	
Florida Administrative Code, regarding)	ORDER NO. 23658
blocking of incoming calls at certain)	
locations by PEOPLES TELEPHONE COMPANY,)	ISSUED: 10-24-90
INC.)	
)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
 BETTY EASLEY
 GERALD L. GUNTER
 FRANK S. MESSERSMITH

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING PARTIAL WAIVER OF
RULE 25-24.515(7), FLORIDA ADMINISTRATIVE CODE

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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On June 19, 1990, Peoples Telephone Company, Inc. (Peoples or the Company) petitioned this Commission to either waive Rule 25-24.515(7), Florida Administrative Code, or to exempt certain pay telephones from the same. Rule 25-24.515(7) requires that pay telephone locations "allow incoming calls to be received." Accompanying the petition was a request by Peoples for specified confidential classification of certain information (generally encompassing the locations of the pay telephones which are the subject of this docket and the name of the company requesting call blocking for Peoples' pay telephones located on their premises).

By Order No. 23502, issued September 17, 1990, the Prehearing Officer denied Peoples' request for specified confidential treatment. The Prehearing Officer reasoned that if we were to grant the rule waiver sought by Peoples, the very same information which Peoples sought to protect would be readily available at the locations where the incoming calls would be blocked. This is because under Rule 25-24.515(5), Peoples would be required to post the incoming call restriction at each call-blocked location. Additionally, the latter portion of Rule 25-24.515(7), for which

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Peoples did not request a waiver, provides for a recorded intercept of calls placed to a telephone which does not receive incoming calls. Thus, both callers to the telephones at issue, as well as users of the call-blocked telephones, would be on notice of the calling restriction at particular locations.

In requesting our permission to block incoming calls at these nine specifically identified locations, Peoples has asserted that the pay telephones in question are being used to foster prostitution and drug dealing and that blocking of incoming calls would make the phones useless for such purposes. Peoples has further stated that it believes such action is necessary to assist in eliminating the use of pay telephones in conjunction with other telecommunications equipment, such as beepers and pagers, often used in illegal activity to avoid phone taps and tracking by law enforcement authorities. Peoples strongly believes that blocking would negate the substantial criminal abuse of public pay telephone access at these particular locations. Finally, Peoples has asserted that such action on our part will further increase the safety of law-abiding citizens who wish to use these telephones by preventing the loitering of persons engaged in criminal activity.

Upon consideration of the arguments advanced by Peoples, we find it appropriate to grant its request to block incoming calls at the nine specifically identified locations. We do so, however, with some reservation. We view our granting of this partial rule waiver as an experiment. Accordingly, Peoples shall file a follow-up report with our staff within ninety (90) days of the effective date of our action. This report shall address the effect of blocking incoming calls at these particular locations.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Peoples Telephone Company, Inc. is hereby granted a partial waiver of Rule 25-24.515(7), Florida Administrative Code, to the extent outlined in the body of this Order. It is further

ORDERED that Peoples Telephone Company, Inc. shall file a follow-up report in accordance with the terms specified herein. It is further

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ORDERED that the effective date of our action described herein is the first working day following the date specified below, if no proper protest to this proposed agency action is filed within the time frame set forth below. It is further

ORDERED that this docket shall be closed by the consummating order to be issued in this docket, if no proper protest to our proposed agency action is received within the time frame specified below.

By ORDER of the Florida Public Service Commission, this
24th day of October, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.

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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 November 14, 1990.

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.