

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of) DOCKET NO. 920019-TC
Rule 25-24.515(11), F.A.C,) ORDER NO. PSC-92-0032-FOF-TC
Current Telephone Directory) ISSUED: 3/10/92
Requirement, on behalf of AT&T)
COMMUNICATIONS OF THE SOUTHERN)
STATES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING PETITION FOR 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 adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On October 4, 1991, a service evaluation was performed on pay telephones operated by AT&T of the Southern States, Inc. (AT&T) in the Marriott Orlando World Center. The service evaluation stated that current telephone directories were not available as required by Rule 25-24.915 (11), Florida Administrative Code. AT&T was notified of the apparent violation on October 10, 1991. On January 10, 1992 the Marriott Corporation (Marriott) informed staff that the directories were in place. Marriott also indicated that AT&T would be filing a petition at its behest requesting a limited waiver of Rule 25-24.515 (11).

On January 3, 1992, AT&T filed for a waiver of Rule 25-24.919(11). The petition indicated that the waiver was only to be applicable to certain desktop and wall mounted pay telephones located in the Marriott Orlando World Center and that the majority of calls made from these instruments were long distance, making local directories unnecessary. AT&T cited that as a practical matter theft and aesthetics precluded maintaining directories at these locations. Furthermore, AT&T indicated that the local exchange company had installed pay telephones with current directories within sight of AT&T's telephones. AT&T apparently felt that the presence of directories at the LEC Telephone relieved the public of the need for a directory at the AT&T telephones.

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FPSC-RECORDS/REPORTING

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In the past, we have granted waivers pay telephone service rules primarily for the purpose of providing restricted pay telephone service in confinement facilities. We have only waived pay telephone rules in two instances other than the confinement facility circumstances. The non-confinement facility rule waivers were for the purpose of blocking incoming calls to pay telephones located in certain high crime areas.

Rules should only be waived when in particular circumstances waiver of the Rule is determined to be in the public interest. In the instant case, AT&T has failed to demonstrate sufficient public benefit to qualify for a rule waiver. The benefits alleged by AT&T accrue primarily to the premises owner and the pay telephone service provider. While AT&T argues that failure to waive the Rule might result in removal of the AT&T instruments, we note that as AT&T candidly admits, its instruments are in sight of LEC pay telephone instrument with directories. Accordingly, we find it appropriate to deny AT&T's petition for rule waiver.

Based on the foregoing, it is Ordered by The Florida Public Service Commission that the Petition by AT&T of the Southern States, Inc. for waiver of Rule 25-24(11), Florida Administrative Code is denied. It is further

ORDERED that any protest of this Order must be filed pursuant to the requirements set forth below. It is further Ordered that if no protest is filed pursuant to the requirements set forth below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 10th day of MARCH, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

JKA

by: Kay Deegan
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 3/31/92.

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 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 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.