

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption)
from Rule 25-24.515(8), F.A.C.,)
concerning blocking incoming)
calls at certain payphone)
locations.)

PEOPLES TELEPHONE COMPANY)
REX TELECOMMUNICATION)

) DOCKET NO. 940918-TC

) DOCKET NO. 940886-TC

) ORDER NO. PSC-94-1532-FOF-TC

) ISSUED: December 12, 1994

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING EXEMPTION FROM RULE 25-24.515(8), FLORIDA
ADMINISTRATIVE CODE, AT SPECIFIED PAY TELEPHONE LOCATIONS TO
PEOPLES TELEPHONE COMPANY AND REX TELECOMMUNICATION

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 August 22, 1994, Peoples Telephone Company (PTC) filed a request for exemption from the Rule 25-24.515(8), Florida Administrative Code, requirement that pay telephones receive incoming calls, for its pay telephone located at Frank's Citgo, 6400 South Dixie Highway, West Palm Beach, 407-533-5240. On August 9, 1994, Rex Telecommunication filed a similar request for its pay telephones located at E-Z Market, 1005 North Seacrest Blvd., 407-732-8493, 407-732-8758, and at E-Z Wash, 111 Martin Luther King, Jr. Blvd., 407-732-8632. Rule 25-24.515(8), Florida Administrative Code, states, "Each telephone station shall allow incoming calls to be received, with the exception of those located at confinement

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facilities, hospitals and schools, and at locations specifically exempted by the Commission." The owners of the sites where the pay telephones are located requested that incoming calls be blocked and law enforcement officials from West Palm Beach and Boynton Beach supported that request. All parties believe the telephones are being used for illegal activities.

In Order No. PSC-93-0878-FOF-TL, issued June 10, 1993, we granted the request of GTE Florida, Inc. and BellSouth Telecommunications, Inc. to block incoming calls at certain pay telephone locations. In that order we also noted that, "[t]here are no set standards for evaluating such a request. Accordingly, the waiver granted herein shall remain in effect only until we have developed such standards, at which time, the propriety of leaving the waiver in effect shall be reexamined." We have adopted a rule to set standards but it is not yet effective. Therefore, we evaluated the companies' requests according to available information and our action on previous requests.

We grant the companies' requests to exempt the pay telephones listed above from the requirement that pay telephones receive incoming calls. The companies are required to place written notice on each phone stating, "Incoming calls blocked at request of law enforcement." This notice shall be placed directly above or below the telephone number. Each company shall also order central office based intercept from the serving local exchange company and ensure that it is provided at no charge to the end-user. We will reconsider these exemptions in the future if it is in the public interest to do so. A petition protesting this Order in one of these dockets will not prevent our proposed action from becoming final as to the other docket in this Order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request Peoples Telephone Company to exempt its telephone listed in the body of this Order from the Rule 25-24.515(8), Florida Administrative Code, requirement that pay telephones receive incoming calls is granted. It is further

ORDERED that the request by Rex Telecommunication to exempt its telephones listed in the body of this Order from the Rule 25-24.515(8), Florida Administrative Code, requirement that pay telephones receive incoming calls is granted. It is further

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ORDERED that Rex Telecommunication and Peoples Telephone Company place written notice directly above or below the telephone number on each affected phone which states, "Incoming calls blocked at request of law enforcement." It is further

ORDERED that each company shall order central office based intercept from the serving local exchange company and ensure that it is provided at no charge to the end-user. It is further

ORDERED that any petition protesting this Order as to one docket will not prevent this Order from becoming final with respect to the other docket listed in this Order. It is further

ORDERED that, unless a person whose substantial interests are affected files a protest in the form and prior to the expiration of the date set forth in the Notice of Further Proceedings, below, these dockets shall be closed.

By ORDER of the Florida Public Service Commission, this 12th day of December, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Tizon
Chief, Bureau of Records

(S E A L)

LMB

Commissioner Garcia dissents from the Commission's decision in these dockets with the following statement.

I agree with Order Number 14132, issued February 27, 1985, where the Commission ordered that pay telephones receive incoming calls and stated, "It is in the public interest for most users to

be able to receive incoming calls at pay telephones. Pay telephones are placed to meet the needs of the public and the ability to receive a call at a pay telephone, especially in emergency situations, is beneficial to the public at large." Approximately 6% of all households in Florida do not have a telephone. For these people, the only practical way to receive telephone calls is through pay telephones. Granting exemptions to the rules and allowing the blocking of incoming calls at pay telephones directly prevents this sector of the community, those who cannot afford telephone service, from receiving calls. I am concerned that the Commission's action today unfairly affects the less fortunate, and thus impugns its responsibility to ensure "the availability of basic telecommunications services to all residents of the state..." See Section 364.01(3)(a), Florida Statutes.

Access by the less fortunate to this most basic on-ramp to the information highway should not be limited simply because criminals also use pay telephones. While I agree with the Commission's desire to do its part to deter crime, less drastic steps can be taken to achieve this goal. One such alternative, placing warnings on certain pay telephones stating the numbers called may be recorded and forwarded to law enforcement agencies, may be effective in deterring the misuse of pay telephones without limiting the ability of the less fortunate to communicate. Assuming arguendo that the Commission continues to grant exemptions from the rules, it should do so for a specified period of time so that access to pay telephones is not permanently limited. Otherwise we have de facto "redlined" areas for limited telephone service. We cannot lose sight of the public safety and public service interests that pay telephones promote by allowing incoming calls.

I respectfully dissent.

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, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on January 3, 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.