

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for exemption
from orders, rules, and
regulations prohibiting
termination of conversations
after ten minutes on calls
placed from pay telephones
located in confinement
institutions, by Sprint
Communications Company Limited
Partnership.

DOCKET NO. 970551-TC
ORDER NO. PSC-97-0882-FOF-TC
ISSUED: July 23, 1997

The following Commissioners participated in the disposition of
this matter:

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

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

Sprint Communications Company Limited Partnership (Sprint LP)
holds Pay Telephone Certificate No. 5359, with an effective
regulation date of June 11, 1997. Sprint LP does not yet provide
service within the State of Florida. Sprint LP has, however, been
awarded a contract by the Florida Department of Corrections to
provide service to 53 correctional facilities in Florida.

On May 7, 1997, Sprint LP filed a petition requesting a waiver
of those rules and regulations which prohibit it from terminating
calls placed from pay telephones located in Florida confinement
institutions in less than 15 minutes, Rules 25-24.515(5), and 25-
24.515(15), Florida Administrative Code. Sprint LP seeks the
waiver so that it can terminate such calls in 10 minutes.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

Pursuant to Section 120.542(6), Florida Statutes, notice of Sprint LP's petition for waiver was submitted to the Secretary of State on May 14, 1997, for publication in the Florida Administrative Weekly. No comments were submitted during the comment period which ended June 6, 1997. On June 30, 1997, Sprint amended its petition solely to comport with Section 120.542, Florida Statutes. In accordance with Section 120.542(7), Florida Statutes, we must rule on this petition by August 5, 1997.

Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code, specifically require notice at all pay stations that terminate conversations after 15 minutes. In view of the fact that the rule requires notice for termination at 15 minutes, but does not provide for termination of calls in less than 15 minutes, Sprint LP believes that these rules may prohibit Sprint LP from terminating calls placed by inmates of confinement institutions in less than 15 minutes. Thus, Sprint LP has requested this waiver to allow it to terminate calls after ten minutes. Sprint agrees, however, that it will comply with the audible and written disconnect notification requirements of Rule 25-24.515(5), Florida Administrative Code.

Sprint LP states that it is seeking this waiver because the Department of Corrections wants to have the capability to limit calls from confinement facilities to a ten minute duration during certain periods and circumstances. Sprint LP asserts that limiting calls to no longer than ten minutes could prove helpful for corrections officials in maintaining order when the inmates' demand for telephone use is high. Sprint LP asserts that forcing corrections officials to allow a minimum 15 minute call duration by inmates is an unnecessary and unreasonable limit on corrections officials' authority. The present rule could be a substantial hardship on corrections officials.

In addition, Sprint LP asserts that the protection to the pay telephone user intended by Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code, is not necessary in the inmate calling environment because corrections officials presently have the ability to control inmate calling. Reducing conversation time from 15 minutes to 10 minutes will not place inmates at an unreasonable disadvantage and will provide the Department of Corrections with additional control over telephone privileges in situations that warrant reduced conversation time. Sprint LP asserts that this ability to limit calls, along with other security features, have allowed correctional officials in other states to prevent inmate

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credit card fraud, as well as other fraud, break up a drug ring, and capture an escaped inmate who used the phone to arrange to be picked-up outside the institution.

Upon review, we find that Sprint LP's amended petition meets the specifications set forth in Section 120.542(5), Florida Statutes. Furthermore, Sprint LP's assertions regarding the Department of Corrections' desire to control the inmate calling environment sufficiently demonstrate that application of Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code, would work a substantial hardship not only on Sprint LP, but on corrections officials as well, in accordance with Section 120.542(2), Florida Statutes. We, therefore, grant Sprint LP's Amended Petition for Waiver of Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code, for those pay phones located in confinement facilities.

Based on the foregoing, it is therefore

ORDERED by the Florida Public Service Commission that Sprint Communications Company Limited Partnership's Petition for Waiver of Rules 25-24.515(5) and 25-24.515(15), Florida Administrative Code, is granted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 23rd
day of July, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Reporting

(S E A L)

BC

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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 August 13, 1997.

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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.

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.