

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Requirement that all local exchange companies provide unlisted numbers to the Department of Agriculture and Consumer Services and deletion of No Sales Solicitation directory listing from their tariffs, in compliance with statutory amendments)	DOCKET NO. 900671-TL
)	ORDER NO. 23458
)	ISSUED: 9-11-90

The following Commissioners participated in the disposition of this matter:

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

ORDER DENYING REQUEST FOR UNLISTED NUMBERS

BY THE COMMISSION:

During the 1990 legislative session, the Florida Legislature amended Section 501.059, Florida Statutes, altering the provision of the No Sales Solicitation listing. Prior to the amendment, residential customers not wishing to receive sales solicitation calls could have a notation placed below their name in the telephone directory. The amendment, effective October 1, 1990, eliminates the need for the directory listing for No Sales Solicitation. Instead, a list will be maintained by the Florida Department of Agriculture and Consumer Services, Division of Consumer Services (Department), comprised of the telephone numbers of customers who do not want to receive telephone solicitation calls. This list will be updated quarterly and sold to solicitors for a fee. As amended, Section 501.059(4), states that no telephone solicitor shall contact by telephone any number which appears on the current No Sales Solicitation list.

In addition, Section 501.059(7)(b), states that solicitors may use an automated dialer if the numbers selected have been screened to exclude any subscriber on the current No Solicitation Calls list "or any unlisted telephone number." Based on this wording, the Department considered including unlisted and nonpublished numbers on the No Sales Solicitation list. Staff then recommended that we order all Local Exchange Companies (LECs) to provide a current list of all their unlisted and nonpublished numbers to the Department on a quarterly basis.

We believe this request is improper. Although the statute prohibits solicitors from calling unlisted numbers, it does not require the Department to include those numbers on the No Sales Solicitation list. We believe the Department's duty is limited to

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maintaining a list, updated quarterly, comprised of those customers who subscribe to the No Sales Solicitation service.

Moreover, including unlisted and nonpublished numbers on the list would require the LECs to supply the Department with quarterly updated lists of thousands of numbers. Currently, there are well over one million unlisted and nonpublished telephone numbers in Florida. We do not believe the intent of the statute is to require the LECs to produce and distribute such a listing to the Department.

Finally, at the August 21, 1990, Agenda Conference, it was revealed that the Department has determined that it does not intend to include the unlisted and nonpublished numbers on its No Sales Solicitation list. The Department believes, and we agree, that to attempt to include such numbers would be costly, time consuming, and would raise the issue of the appropriateness of supplying lists of unlisted and nonpublished numbers to solicitors.

The amendment to Section 501.059, becomes effective October 1, 1990, eliminates the directory listing for No Sales Solicitation, and establishes the provision of the list through the Department. All of the LECs in Florida have tariff provisions for a No Sales Solicitation listing in their directory. Therefore, we direct the LECs to file revisions to their tariffs removing the provision for No Sales Solicitation directory listings. Such tariffs shall be filed by September 10, 1990, and become administratively effective October 1, 1990.

Based on the foregoing, it is

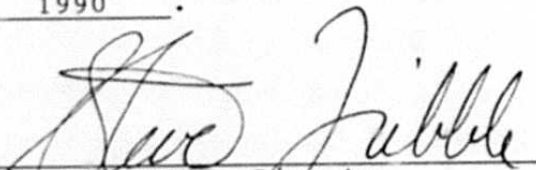
ORDERED by the Florida Public Service Commission that the local exchange companies are not required to provide a list of their unlisted and nonpublished numbers to the Department of Agriculture and Consumer Services, Division of Consumer Services, for the purpose of establishing a No Sales Solicitation list. It is further

ORDERED that all local exchange companies shall file revisions to their tariffs removing the provision for No Sales Solicitation directory listings, as set forth in the body of this order. It is further

ORDERED that this docket be closed.

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By ORDER of the Florida Public Service Commission, this 11th
day of SEPTEMBER, 1990.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

PAK

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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance 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.