

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) )  
regarding blocking of incoming calls at ) ORDER NO. 23502  
certain locations by PEOPLES TELEPHONE )  
COMPANY, INC. ) ISSUED: 9-17-90  
)

ORDER DENYING SPECIFIED CONFIDENTIAL CLASSIFICATION

BY THE COMMISSION:

On June 19, 1990, Peoples Telephone Company, Inc. (Peoples or the Company) petitioned the 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).

It is Peoples' position that the payphones in question are being used to foster illegal activities. In support of its confidentiality request, Peoples argues that: "Because the nature of the confidential material involves public safety and security, Peoples strongly desires not to interfere with police enforcement in locations affected by its Petition for Exemption or Waiver." Peoples relies on language in Section 364.183(3)(c), Florida Statutes, which provides for a "security measures" exemption to Section 119.07(1), Florida Statutes. Peoples then continues:

Granting confidential status to the information here at issue may be deemed a proper security measure due to the criminal nature of the activities involved. Naming the company or affected locations could put those involved in unlawful activities on notice and thereby hamper law enforcement efforts in the area. In addition, such notice could merely act as a stimulus, encouraging the spread of drug and prostitution activities at locations currently unaffected. Finally, the public will best be served by Commission action that ensures an immediate end to unlawful activities which threaten public safety and interfere with public use of pay telephones.

It is our belief that, if we decide to grant the rule waiver sought by Peoples, the information which Peoples seeks to protect would be readily available at the locations where the incoming

DOCUMENT NUMBER-DATE

08275 SEP 17 1990

FPSC-RECORDS/REPORTING

ORDER NO. 23502  
DOCKET NO. 900563-TC  
PAGE 2

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 Peoples has not requested a waiver, provides for a recorded intercept of calls placed to a telephone with call blocking. 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.

Pursuant to Section 364.183 and Rule 25-22.006, Florida Administrative Code, it is the Company's burden to show that the material submitted is qualified for specified confidential classification. Rule 25-22.006 provides that the Company may fulfill its burden by demonstrating that the documents fall into one of the statutory examples set forth in Section 364.183 or by demonstrating that the information is proprietary confidential information, the disclosure of which will cause the Company or its ratepayers harm.

Upon review of this request, we find that the Company has not met its burden. The information for which Peoples has requested specified confidential treatment is not kept confidential in the normal course of business. As we stated above, this information will be available at the locations where incoming calls would be blocked, as well as being available to those placing calls to these locations. Accordingly, we cannot justify exempting this information from the requirements of Section 119.07(1).

Therefore, based on the foregoing, it is

ORDERED by Commissioner Thomas M. Beard, as Prehearing Officer, that the Request for Specified Confidential Classification filed on June 19, 1990, by Peoples Telephone Company, Inc. is hereby denied for the reasons set forth herein.

ORDER NO. 23502  
DOCKET NO. 900563-TC  
PAGE 3

By ORDER of Commissioner Thomas M. Beard, as Prehearing Officer, this 17th day of SEPTEMBER, 1990.

  
THOMAS M. BEARD, Commissioner  
as Prehearing Officer

( S E A L )

CWM/ABG

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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration from the full Commission within 14 days pursuant to Rule 25-22.006(3), Florida Administrative Code, for rulings on confidentiality issued by a Prehearing Officer; 2) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, for any rulings on issues other than confidentiality if issued by a Prehearing Officer; 3) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 4) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed

ORDER NO. 23502  
DOCKET NO. 900563-TC  
PAGE 4

ORDER NO. 23502  
DOCKET NO. 900563-TC  
PAGE 4

by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

THOMAS W. BRAND, Commissioner  
of Public Safety

NOTICE OF WHETHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 350.01(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 350.07 or 350.08, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for administrative hearing or judicial review will be granted or denied in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration from the full Commission within 14 days pursuant to Rule 25-22.060(1), Florida Administrative Code, for rulings on confidentially issued by a rehearing officer; (2) reconsideration within 10 days pursuant to Rule 25-22.060(2), Florida Administrative Code, for any rulings on issues other than confidentiality; (3) reconsideration within 15 days issued by a rehearing officer; (4) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission or a 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. A notice for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed