

FLORIDA PUBLIC SERVICE COMMISSION  
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M E M O R A N D U M

April 4, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (L. KING, K. LEWIS, WIGGINS) *W*  
DIVISION OF LEGAL SERVICES (BILLMEIER) *LMB*

RE: DOCKET NO. 960230-TP - INVESTIGATION TO DETERMINE IF  
RESTRICTING OUTGOING CALLS FROM PAY TELEPHONE INSTRUMENTS  
DURING CERTAIN TIME OF DAY PERIODS IS IN THE PUBLIC  
INTEREST.

AGENDA: 04/16/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\960230.RCM

CASE BACKGROUND

On February 15, 1996, BellSouth Telecommunications, Inc. (BellSouth or the Company) filed a tariff to restrict calls from being placed at designated public telephones during certain time of day periods, at the location provider's request, and at the Company's option. Since BellSouth is a price regulated company, this tariff filing is presumptively valid and became effective March 1, 1996. The tariff filing prompted a staff investigation to determine if restricting outgoing calls from pay telephone instruments is in the public interest. Staff is not aware of any past proceeding that specifically addressed restricting outgoing calls. Once the Commission establishes its policy with regard to blocking outgoing calls from local exchange company and non-local exchange company pay telephones, staff will proceed to rulemaking, if necessary.

Staff's primary recommendation is that blocking of outgoing calls is not in the public interest. Staff's alternative recommendation is that blocking outgoing calls is in the public interest if provided under certain conditions.

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03854 APR-4 96

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### DISCUSSION OF ISSUES

**ISSUE 1:** Is restricting outgoing calls from pay telephone instruments during certain time of day periods in the public interest?

**PRIMARY RECOMMENDATION:** No, restricting outgoing calls from pay telephone instruments during certain time of day periods is not in the public interest. Any local exchange company offering outgoing call blocking in its tariff should be ordered to delete this option within 15 days of the Order becoming final.

**ALTERNATIVE RECOMMENDATION:** Yes, restricting outgoing calls from pay telephone instruments during certain time of day periods is in the public interest if provided under certain conditions. These conditions should be developed through a rulemaking proceeding for both local exchange company and non-local exchange company pay telephone providers.

**PRIMARY STAFF ANALYSIS:** On February 15, 1996, BellSouth filed a tariff that would allow the Company to restrict calls from being placed at designated public telephones during certain time of day periods at the location provider's request and at the Company's option. The tariff specifies that access to 911 emergency services would not be prevented at any time. In addition, signage would be placed on each affected instrument stating the hours the instrument is operational and that 911 is available 24 hours a day. The tariff became effective on March 1, 1996. The tariff filing prompted staff's investigation to determine if restricting outgoing calls from pay telephone instruments (PATS) is in the public interest.

### WHY RESTRICT OUTGOING CALLS?

According to BellSouth, its filing was made in the interest of public safety and welfare. It is believed that restricting outgoing calls during certain times of the day will deter loitering and assist law enforcement in curtailing crime. These are the same arguments used for restricting incoming calls. Both local exchange company (LEC) and non-local exchange company (NLEC) pay telephone providers are prevented from blocking incoming calls by Rules 25-4.076(6) and 25-24.515(8), F.A.C., respectively. However, these rules also contain a provision for requesting an exemption, which, if approved by the Commission, allows a provider to block incoming calls under certain conditions. BellSouth believes its customers (location providers) will want to restrict outgoing calls in conjunction with a request to block incoming

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calls, so the instrument would be rendered essentially non-functioning during certain time of day periods.

#### STAFF'S CONCERNS

Staff believes restricting outgoing calls is not in the public interest. We believe that pay telephones typically are used by law abiding citizens daily and that there is a public expectation that pay telephones are in place for the purpose of making and receiving calls.

Blocking of outgoing calls may not serve the greater public interest as it may result in inequality of service because of the likelihood that only pay telephones in high crime, low-income neighborhoods will be blocked from allowing outgoing calls. Persons who do not subscribe to telephone service in their home will not be able to make and in some cases receive calls if the only pay telephone in their neighborhood does not allow outgoing calls in conjunction with a block on incoming calls.

Although BellSouth's tariff does not restrict access to 911, the inability to make calls during certain hours would certainly cause major inconveniences for the public who would not be able to use the telephone to place a call. For example, a person whose car breaks down in a deserted area may walk to the nearest pay telephone only to find that it does not allow outgoing calls at that time. The motorist is unable to call a family member or a towing service and may place the only call he can, which is to 911. As a result, county 911 centers may see an increase in nonemergency type calls.

Pay telephone providers have historically placed their instruments in service for the purpose of earning revenue from outgoing calls. Consequently, there has not been a need to specify by rule that pay telephone instruments shall allow outgoing calls to be made on a 24 hour basis. However, staff would consider proposing a rule to require outgoing call capability should it become necessary.

Fundamentally, the Commission must decide whether having a pay telephone in place that is not completely functional, is better than not having a pay telephone at the location at all. BellSouth has stated that blocking outgoing calls would likely be done at locations where incoming calls were already being blocked. In staff's opinion, restricting outgoing calls in conjunction with blocking incoming calls will render the pay telephone essentially

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useless during certain times of day and therefore may be more harmful to the public than beneficial. The Commission should find that restricting outgoing calls is not in the public interest and order any local exchange company which offers outgoing call blocking in its tariff to delete the option within 15 days of the Order becoming final.

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**ALTERNATIVE STAFF ANALYSIS:** According to BellSouth, its filing was made in the interest of public safety and welfare. BellSouth, location owners and law enforcement officials believe that criminal activity and loitering could be deterred if outgoing calls are allowed to be restricted during certain time of day periods.

Staff understands the concern for public safety that prompted BellSouth to file a tariff and provide its customers with the option of restricting outgoing calls. Law enforcement officials and location providers are pressuring pay telephone providers to exert greater control over public pay telephones in an attempt to reduce loitering and criminal activity. This same concern for public safety caused the Commission to develop specific guidelines and conditions under which it would allow incoming calls to be blocked (Rules 25-24.515(8) and 25-4.076(6), Florida Administrative Code).

Staff believes pay telephone providers are naturally reluctant to block outgoing calls at their pay telephones as doing so would totally eliminate their ability to earn revenue from the instrument. Staff also believes that a pay telephone provider should not have unilateral authority to block outgoing calls at its discretion. We believe that defining the circumstances under which pay telephone providers may restrict outgoing calls is the most reasonable solution. Defining conditions would maintain service standards within the industry yet allow pay telephone providers to respond to the needs of customers, location owners and law enforcement. If the Commission approves staff's alternative recommendation, staff will develop conditions through a rulemaking proceeding for both LEC and NLEC pay telephone providers.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes, this docket should be closed and staff should proceed to develop an appropriate rule through a rulemaking docket. If the Commission approves either the primary or alternative recommendation in Issue 1, this docket should be closed unless a protest is filed within 21 days of the issuance of the Proposed Agency Action Order. If a timely protest is received, this docket should remain open pending resolution of the protest.

**STAFF ANALYSIS:** Whether the Commission approves either the primary or alternative recommendation in Issue 1, the result will be a Proposed Agency Action Order. This docket should be closed at the conclusion of the protest period unless a protest is filed within 21 days of the issuance of the Order. If a protest is filed within 21 days of the issuance of the Order, this docket should remain open pending the resolution of the protest. Whether the primary or alternative recommendation is approved, staff will develop an appropriate rule through a rulemaking docket.