

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

January 9, 1997

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

FROM: DIVISION OF COMMUNICATIONS (HAWKINS) *gsh*
DIVISION OF LEGAL SERVICES (COX) *WPC MCB*

RE: DOCKET NO. 961303-TC - PEOPLES TELEPHONE COMPANY, INC. -
PETITION FOR EXEMPTION FROM RULE 25-24.515(7), F.A.C. TO
PERMIT PROVISION OF 0+ LOCAL AND 0+ INTRALATA CALLS FROM
PAY TELEPHONES LOCATED IN CONFINEMENT FACILITIES.

AGENDA: 01/21/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\961303.RCM

CASE BACKGROUND

Peoples Telephone Company, Inc. (Peoples) holds pay telephone certificate no. 84, with an effective regulation date of March 14, 1985, and IXC certificate no. 2995 issued in 1992.

On October 29, 1996, Peoples filed a Petition for a waiver of those rules and policies currently prohibiting it from providing 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement facilities (Attachment A). Peoples provides intrastate telecommunication services to inmates in certain Florida inmate facilities. Peoples does not seek general authority to provide local exchange services and therefore, does not seek certification as an alternative local exchange company. Peoples wishes to carry and bill 0+ local and intraLATA calls solely to improve the competitive pay telephone services it provides at Florida inmate institutions.

DOCUMENT NUMBER-DATE

00246 JAN-96

FPSC-RECORDS/REPORTING

DOCKET NO. 961303-TC
DATE: JANUARY 9, 1997

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Peoples' Petition for exemption from Rule 25-24.515(7), and Rule 25-24.620(2)(c) and (d) Florida Administrative Code, and the policies contained in Orders Nos. 95-0918, 95-0203, and 24101 to permit it to handle and bill 0+ local and 0+ intralata calls from pay telephones located in confinement facilities at no more than the rates charged by the serving local exchange company for the same call?

RECOMMENDATION: Yes.

STAFF ANALYSIS: The Commission has already issued Order No. PSC-96-0884-FOF-TP implementing 1+intraLATA competition via presubscription. The Commission has also granted exemptions to allow five other pay telephone providers to handle 0+local and intraLATA traffic in confinement facilities (951198-TC, 951546-TP, 9960407-TC, 960570-TC and 960603-TC). Three small rate-of-return regulated LECs (Quincy Telephone Company, Alltel Florida, Inc., and Indiantown Telephone System, Inc.) filed protests to the Orders granting those exemptions and all five dockets have been scheduled for hearing.

There seems to be no compelling reason to continue the prohibition against pay telephone providers in confinement facilities handling local and intraLATA calls on a collect basis since Florida Statutes have been amended to permit competition for local telephone service and the Commission has been instructed to encourage such competition. Section 364.01(4)(e), Florida Statutes instructs the Commission to "Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints." Section 364.01(4)(f), Florida Statutes instructs the Commission to "Eliminate any rules and/or regulations which will delay or impair the transition to competition."

Allowing Peoples to handle local and intraLATA 0+ calls from confinement facilities will facilitate competition as the company will be able to more effectively compete for those sites where the traffic is predominately local and intraLATA. Peoples is capable of providing 0+ local and 0+ intraLATA service immediately as the technology is already in place within the pay telephone. Staff believes Peoples' petition to handle 0+ local and intraLATA calls from confinement facilities should be granted.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action. A protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent Peoples from carrying this traffic in a non-protesting LEC's territory.

STAFF ANALYSIS: This docket should be closed unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action.

As stated in the staff analysis of issue 1, the Commission has approved similar requests from five other pay telephone providers. Those decisions were protested by three of the rate of return regulated LECs. Staff does not believe Peoples should be prohibited from carrying this traffic in a LEC's territory if that LEC does not protest the Commission's action. Accordingly, a protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent Peoples from carrying this traffic in a non-protesting LEC's territory.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Waiver of Rule 25-24.515 (7))
and Rule 25-24.620 (2) (c) and (d), F.A.C.,)
regarding 0- and 0+ intraLATA traffic by Peoples)
Telephone Company, Inc.)
_____)

Docket No. 961303-TC

Filed: 10/29/96

PEOPLES TELEPHONE COMPANY, INC.'S
PETITION FOR WAIVER OF
RULES 25-24.620 (2) (c), (d) AND 25-24.515 (7)
FLORIDA ADMINISTRATIVE CODE

Peoples Telephone Company, Inc. (Peoples), pursuant to Florida Public Service Commission (Commission) Rule 25-24.505, Florida Administrative Code, hereby files this Petition for waiver of Rule 25-24.515(7) and Rule 25-24.620(2)(c) and (d), Florida Administrative Code, regarding certain 0+ local and intraLATA traffic. In support of its Petition, Peoples shows:

Procedural Background

1. The exact name of the Petitioner and the address of its principal business office is:

Peoples Telephone Company, Inc.
2300 N.W. 89th Place
Miami, Florida 33172-2431

2. All notices, pleadings and orders should be directed to:

Bruce Renard
Peoples Telephone Company, Inc.
2300 N.W. 89th Place
Miami, Florida 33172-2431
(305) 593-9667

DOCUMENT NUMBER-DATE

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Relief Requested

3. Peoples requests that this Commission authorize it to carry 0+ local and intraLATA traffic from inmate facilities in Florida.

Factual Background

4. The corporation holds Pay Telephone Certificate No. 84 (issued in Docket No. 840364-TI) and IXC Certificate No. 2995 (issued in Docket No. 920171-TI). Peoples is authorized to offer Inmate Telecommunication service, by Docket 891301-TC issued January 23, 1990.

5. Peoples provides intrastate telecommunication services to inmates in certain Florida Inmate facilities. Peoples' system uses store and forward technology to convert 0+ automated calls to 1+ automated calls. The inmate must input a personal identification number (PIN) to place an outgoing call and is restricted to thirty (30) telephone numbers, previously approved by prison officials. Peoples' system then automatically identifies the originator of the call to the called party. When the called party inputs the validating signal to accept charges for the call, the call is completed. This process assures that inmates cannot engage in harassment of citizens or conduct illicit activity over the telephone network.

6. Peoples' on-premise equipment records call detail for interLATA calls, which currently is then rated and sent out for billing every week. Peoples wishes to carry and bill 0+ local and intraLATA calls in addition to interLATA traffic.

Discussion

7. Rule 25-24.515(7), and Rule 25-24.620(2)(c) and (d), Florida Administrative Code, require all intraLATA calls to be routed to the local exchange company unless the end user dials the access code for a specific long distance carrier. The basis for these rules has been the local exchange companies' long-standing local service monopoly. Recent events have, however, modified the policies set forth in those rules and removed the legal impediment to Peoples' offering intraLATA services.

8. First, the Commission authorized competition and presubscription to intraLATA toll traffic in Order No. PSC-95-0203-FOF-TP, which effectively "de-monopolized" the intraLATA toll market. Additionally, the Florida Legislature went several steps beyond that point when it authorized competition for all local services beginning January 1, 1996. In the legislation instructing the Commission as to its duties and authority under the new competitive regulatory scheme, the Legislature included a strong finding that competition is very much in the public interest:

The Legislature finds that the competitive provision of telecommunications services, including local exchange telecommunications service, is in the public interest and will provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation and encourage investment in telecommunications infrastructure.

Section 364.01(3), Florida Statutes (1995). See, also, Section 361.01(4)(b), which requires the Commission to encourage competition through "flexible regulatory treatment" in order to promote consumer choice; Section 364.01(4)(e), which directs the Commission to avoid "unnecessary regulatory constraints"; and Section 364/01(4)(f), which requires the Commission to eliminate rules and regulations that would "delay or impair the transition to competition". Peoples believes that these statutory revisions allow the Commission to grant its petition.

9. Peoples does not seek general authority to provide local exchange services and therefore does not seek certification as an alternative local exchange company. Peoples wishes to carry and bill 0+ local and intraLATA calls solely to improve the competitive pay telephone services it provides at Florida inmate institutions, which must meet the expressed needs of Florida corrections administrators to control inmates' use of pay telephones.

10. In the absence of controls, inmates use telephones to harass and defraud

businesses and individuals. Telephone fraud and harassment by inmates of confinement facilities is a serious and continuing problem in Florida. Peoples' system includes a patented safeguard that screens and prevents certain dialing patterns and other schemes for unauthorized calls, including three-way or conference calling.

11. Unfortunately, placing 0+ local and intraLATA calls through the LEC operator and facilities, as required by the Commission's current rules, defeats Peoples' safeguards and deprives inmate facilities of the ability to control these calls.

12. Granting the waiver is in the public interest generally because it aids inmate facilities administrators in controlling inmate fraud and abuse. More importantly, the waiver is consistent with the Legislative directive to encourage competition and promote consumer choice and is exactly the kind of "flexible regulatory treatment" contemplated by section 364.01(4)(b), Florida Statutes. The dissolution of the LEC monopoly on local exchange services renders the continued application of Rules 25-24.515(7) and 25-24.620(2)(c) and (d) an "unnecessary regulatory constraint" which the Commission must avoid as required by section 364.01(4)(e).

THEREFORE, for the reasons stated above, Peoples requests that the Commission enter an order granting a waiver of Rules 25-24.515(7) and 25-24.620(2)(c) and (d), Florida Administrative Code, and authorizing it to carry and bill

0+ local and intraLATA traffic originated at Florida inmate facilities without delivering traffic to the applicable local exchange company.

Respectfully submitted this 28th day of October, 1996



Bruce Renard, Esquire
Peoples Telephone Company, Inc.
2300 N.W. 89th Place
Miami, Florida 33172-2431
Counsel for Peoples Telephone Company, Inc.