

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

MEMORANDUM

May 7, 1997

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS (HAWKINS) *SHH*  
DIVISION OF LEGAL SERVICES (COX) *WPC mb*

RE : REQUEST FOR WAIVER FROM REQUIREMENT THAT EACH TELEPHONE  
STATION SHALL ALLOW INCOMING CALLS

DOCKET NO. 970211-TC - PEOPLES TELEPHONE COMPANY, INC.  
DOCKET NO. 970212-TL - BELLSOUTH TELECOMMUNICATIONS  
DOCKET NO. 970246-TC - PEOPLES TELEPHONE COMPANY, INC.  
DOCKET NO. 970248-TL - SPRINT-FLORIDA, INCORPORATED  
DOCKET NO. 970249-TC - COMMERCIAL TELEPHONE'S, INC.  
DOCKET NO. 970250-TC - TELALEASING ENTERPRISES, INC.  
DOCKET NO. 970276-TC - PEOPLES TELEPHONE COMPANY, INC.  
DOCKET NO. 970277-TC - PEOPLES TELEPHONE COMPANY, INC.  
DOCKET NO. 970278-TC - PEOPLES TELEPHONE COMPANY, INC.  
DOCKET NO. 970279-TL - GTE FLORIDA INCORPORATED

AGENDA: 05/19/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: 05/20/97, 05/20/97, 06/27/97, 06/27/97, 06/27/97,  
06/27/97, 06/03/97, 06/03/97, 06/03/97, & 06/03/97.

SPECIAL INSTRUCTIONS: B:\PSC\CMU\WP\970211.RCM

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CASE BACKGROUND

The providers listed on page 4 have submitted one or more requests to block incoming calls at their pay telephones. Each of the requests were submitted on a properly completed Form PSC/CMU 2 (12/94).

1.) Docket #970211-TC - Peoples Telephone Company, Inc. - The Waiver Petition was filed on February 19, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly March 12, 1997. No comments were submitted during the comment period, which ended April 11, 1997. The statutory deadline for the Commission's decision regarding this petition is May 20, 1997.

DOCUMENT NUMBER-DATE

04530 MAY-75

FISC-RECORDS/REPORTING

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970250-TC, 970276-TC, 970277-TC, 970278-TC and 970279-TL  
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2.) Docket #970212-TL - BellSouth Telecommunications - The Waiver Petition was filed on February 19, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly March 12, 1997. No comments were submitted during the comment period, which ended April 11, 1997. The Statutory Deadline for the Commission's decision regarding this petition is May 20, 1997.

3.) Docket #970246-TC - Peoples Telephone Company, Inc. - The Waiver Petition was filed on February 26, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly April 2, 1997. To date, no comments have been submitted. The Statutory Deadline for the Commission's decision regarding this petition is May 27, 1997.

4.) Docket #970248-TL - Sprint-Florida, Incorporated - The Waiver Petition was filed February 26, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly April 2, 1997. To date, no comments have been submitted. The Statutory Deadline for the Commission's decision regarding this petition is May 27, 1997.

5.) Docket #970249-TC - Commercial Telephone's, Inc. - The Waiver for Petition was filed February 26, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly April 2, 1997. To date, no comments have been submitted. The Statutory Deadline for the Commission's decision regarding this petition is May 27, 1997.

6.) Docket #970250-TC - Telaleasing Enterprises, Inc. - The Waiver Petition was filed February 26, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly April 2, 1997. To date, no comments have been submitted. The Statutory Deadline for the Commission's decision regarding this petition is May 27, 1997.

7.) Docket #970276-TC - Peoples Telephone Company, Inc. - The Waiver for Petition was filed March 5, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly March 12, 1997. No comments were submitted during the comment period, which ended April 21, 1997. The Statutory Deadline for the Commission's decision regarding this petition is June 3, 1997.

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8.) Docket #970277-TC - Peoples Telephone Company, Inc. - The Waiver Petition was filed March 5, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly March 12, 1997. No comments were submitted during the comment period, which ended April 21, 1997. The Statutory Deadline for the Commission's decision regarding this petition is June 3, 1997.

9.) Docket #970278-TC - Peoples Telephone Company, Inc. - The Waiver Petition was filed March 5, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly March 12, 1997. No comments were submitted during the comment period, which ended April 21, 1997. The Statutory Deadline for the Commission's decision regarding this petition is June 3, 1997.

10.) Docket #970279-TL - GTE Florida Incorporated - The Waiver Petition was filed March 5, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly April 2, 1997. No comments were submitted during the comment period, which ended April 21, 1997. The Statutory Deadline for the Commission's decision regarding this petition is June 3, 1997.

Staff believes the following recommendations are appropriate.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission grant each of the providers listed on page 4 a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed?

**RECOMMENDATION:** Yes, the Commission should grant the providers listed on page 4 a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed.

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**STAFF ANALYSIS:** Rules 25-24.515(8), and 25-4.076(6), Florida Administrative Code, provide in pertinent part:

Each telephone station shall allow incoming calls to be received, with the exception of those located at penal institutions, hospitals and schools, and at locations specifically exempted by the Commission. There shall be no charge for receiving incoming calls. Requests for exemption from the requirement that each telephone station allow incoming calls shall be accompanied by a completed FORM PSC/CMU-2 (12/94), which is incorporated into this rule by reference.

Each company has submitted a properly completed Request to Block Incoming Calls form for each of the instruments identified on page 4. Staff has reviewed each form and found each to have been signed by the owner or officer of the pay telephone company, the location owner, and the chief of the law enforcement agency of the jurisdiction in which the pay telephone is located.

By signing FORM PSC/CMU-2 (12/94), each pay telephone company has agreed to provide central office based intercept at no charge to the end-user and to prominently display a written notice directly above or below the telephone number which states "Incoming calls blocked at the request of law enforcement." Furthermore, there is language on the form above each of the three party's signatures which states "I am aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public-servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree."

Staff recommends that the waivers requested in these dockets should be granted. The providers have demonstrated the need to waive Rule 25-24.515(8) and 25-4.076(6), Florida Administrative Code, pursuant to the waiver provisions therein and to the waiver provisions of Chapter 120.542(2), Florida Statutes. Staff believes that by granting these waiver requests the Commission would be acting in the public interest with regard to pay telephone service under Chapter 364.01 and 364.3375, Florida Statutes, in an effort to prevent criminal activity. Further, enforcement of the incoming call blocking requirement would result in substantial hardship for the petitioners as the requirement allows the payphones to be used for continuing criminal activity.

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**ISSUE 2:** Should these dockets 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.

**STAFF ANALYSIS:** Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, these dockets should be closed. A protest in one docket should not prevent the action in a separate docket from becoming final.

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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
970211-TC	PEOPLES TELEPHONE	904/423-9386	301 FLAGLER AVE	NEW SMYRNA BCH
970212-TL	BELLSOUTH	954/786-5219	2300 N E 10th ST	POMPANO BCH
970212-TL	BELLSOUTH	954/941-9329	2300 N E 10th ST	POMPANO BCH
970246-TC	PEOPLES TELEPHONE	954/961-9302	5640 WILEY ST	HOLLYWOOD
970248-TL	SPRINT	407/348-9070	2710 PEBBLE POINTE WAY	KISSIMMEE
970249-TC	COMMERCIAL TELEPHONE'S	305/531-9761	1600 COLLINS AVE	MIAMI BEACH
970249-TC	COMMERCIAL TELEPHONE'S	305/531-9894	1400 COLLINS AVE	MIAMI BEACH
970249-TC	COMMERCIAL TELEPHONE'S	305/531-9599	1400 COLLINS AVE	MIAMI BEACH
970249-TC	COMMERCIAL TELEPHONE'S	305/531-9299	1600 COLLINS AVE	MIAMI BEACH
970249-TC	COMMERCIAL TELEPHONE'S	305/534-1295	321 OCEAN DRIVE	MIAMI BEACH
970250-TC	TELALEASING	904/575-7360	2241 W PENSACOLA ST	TALLAHASSEE
970250-TC	TELALEASING	941/401-8405	2600 AVE C, S.W.	WINTER HAVEN
970250-TC	TELALEASING	941/291-0115	2600 AVE C, S.W.	WINTER HAVEN
970276-TC	PEOPLES TELEPHONE	904/423-9386	301 FLAGLER AVE, REAR	NEW SMYRNA BCH
970277-TC	PEOPLES TELEPHONE	941/499-0140	516 E PEACH ST	LAKELAND
970277-TC	PEOPLES TELEPHONE	941/499-0093	508 E OAK ST	LAKELAND
970278-TC	PEOPLES TELEPHONE	941/4990051	707 E OAK ST	LAKELAND
970278-TC	PEOPLES TELEPHONE	941/499-0053	421 N IOWA AVE	LAKELAND
970279-TL	GTE FLORIDA	813/363-9941	600 COREY AVE	ST. PETERSBURG
970279-TL	GTE FLORIDA	813/363-9908	524 COREY AVE	ST. PETERSBURG