

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

MEMORANDUM

May 29, 1997

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

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

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

DOCKET NO. ~~970442~~-TC - FIRST AMERICAN
TELECOMMUNICATIONS
CORPORATION

AGENDA: 06/10/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATE: 07/08/97

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\970442.RCM

CASE BACKGROUND

First American Telecommunications Corporation submitted a request to block incoming calls at three pay telephones. The requests were submitted on a properly completed Form PSC/CMU 2 (12/94).

First American Telecommunications Corporation's Waiver Petition was filed April 9, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly May 2, 1997. No comments were submitted during the comment period, which ended April 2, 1997. The Statutory Deadline for the Commission's decision regarding this petition is July, 8, 1997.

Staff believes the following recommendation is appropriate.

DOCUMENT NUMBER-DATE

05384 MAY 29 97

FSPC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant First American Telecommunications Corporation a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed on page 4 of this recommendation?

RECOMMENDATION: Yes, the Commission should grant First American Telecommunications Corporation a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed on page 4 of this recommendation.

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.

The company has submitted a properly completed Request to Block Incoming Calls form for the instruments identified on page 4. Staff has reviewed the form and found it 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), the 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."

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Staff recommends that the waiver requested in this docket should be granted. The provider has 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 this waiver request, 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 requirement would result in substantial hardship for the petitioner as the requirement allows the payphones to be used for continuing criminal activity.

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.

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, this docket should be closed.

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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
970442-TC	FIRST AMERICAN	954/752-8307	2290 CORAL SPRINGS DR	CORAL SPRINGS
970442-TL	FIRST AMERICAN	954/752-8049	2290 CORAL SPRINGS DR	CORAL SPRINGS
970442-TL	FIRST AMERICAN	954/751-8814	2290 CORAL SPRINGS DR	CORAL SPRINGS