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MEMORANDUM

FPSC - Records/Reporting

JANUARY 22, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *File*  
DIVISION OF LEGAL SERVICES (BOWMAN) *MCB*

RE: REQUEST FOR WAIVER FROM REQUIREMENT OF RULE 25-24.515(8),  
FLORIDA ADMINISTRATIVE CODE, THAT EACH TELEPHONE STATION  
SHALL ALLOW INCOMING CALLS

DOCKET NO. 971609-TC - TELALEASING ENTERPRISES, INC.

AGENDA: FEBRUARY 3, 1998 - REGULAR AGENDA - PROPOSED AGENCY  
ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: MARCH 11, 1998 - STATUTORY DEADLINES

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\971609TC.RCM

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CASE BACKGROUND

The provider listed on page 4 has submitted one or more requests to block incoming calls at its pay telephones. Each request was submitted on a properly completed Form PSC/CMU 2 (12/94).

1.) Docket #971609-TC - Telaleasing Enterprises, Inc. - The Waiver Petition was filed on December 11, 1997. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly December 22, 1997. The comment period ended January 16, 1998. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is March 11, 1998.

Staff believes the following recommendations are appropriate.

DOCUMENT NUMBER-DATE

01149 JAN 21 88

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the provider listed on page 4 a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone number at the address listed?

RECOMMENDATION: Yes. (Isler)

STAFF ANALYSIS: Rule 25-24.515(8), Florida Administrative Code, provides 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 instrument 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 parties' 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 waiver requested in this docket should be granted. The waiver is being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. The

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petitioner has demonstrated that granting the waiver will not impede the continued provision of pay telephone service to the using public as intended by the underlying statute, Chapter 364.345, Florida Statutes. Staff also believes that by granting the 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 blocking requirement would result in substantial hardship for the petitioners as the requirement allows the payphones to be used for continuing criminal activity.

In addition, the petitioner has demonstrated that granting the waiver will lift the "substantial hardship" that the rule imposes on law enforcement and the location provider.

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. (Bowman)

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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DOCKET NO.	PROVIDER	PHONE NUMBER	ADDRESS	CITY
971609-TC	Telaleasing Enterprises	813-541-0645	6701 Bryan Dairy Road	Largo