

FLORIDA PUBLIC SERVICE COMMISSION
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MEMORANDUM

FEB 16 1998

FEBRUARY 26, 1998

FPSC - Records/Reporting

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *ISL*
DIVISION OF LEGAL SERVICES (BOWMAN) *BOW*

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. 980065-TC - BELLSOUTH PUBLIC COMMUNICATIONS,
INC.

AGENDA: MARCH 10, 1998 - REGULAR AGENDA - PROPOSED AGENCY ACTION
- INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: APRIL 13, 1998 - STATUTORY DEADLINE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\980065TC.RCM

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 #980065-TC - BellSouth Public Communications, Inc.
- The Waiver Petition was filed on January 13, 1998. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly January 28, 1998. The comment period ended February 21, 1998. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is April 13, 1998.

Staff believes the following recommendations are appropriate.

DOCUMENT NUMBER-DATE

02258 FEB 16 98

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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 numbers at the addresses 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 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), 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 waivers requested in this docket should be granted. These waivers are being requested in accordance with the requirements of Chapter 120.542(2), Florida

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Statutes. The petitioner has demonstrated that granting these waivers 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 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 petitioner as the requirement allows the payphones to be used for continuing criminal activity.

In addition, the petitioner has demonstrated that granting these waivers 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, these dockets 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
980065-TC	BellSouth Public Communications, Inc.	904 398 7119	1650 Ring Lane	Jacksonville
980065-TC	BellSouth Public Communications, Inc.	407-248-8341	1645 W. Oak Ridge Road	Orlando