

FLORIDA PUBLIC SERVICE COMMISSION
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Tallahassee, Florida 32399-0850

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MEMORANDUM

JUNE 4, 1998

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FPSC - Records/Reporting

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF COMMUNICATIONS (ISLER) *PIJ AW*
DIVISION OF LEGAL SERVICES (CRUZ-BUSTILLO) *ieB NCB*

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. 980532-TC - PEOPLES TELEPHONE COMPANY, INC.
DOCKET NO. 980544-TC - FLORIDA PAY PHONE SYSTEMS, INC.

AGENDA: JUNE 16, 1998 - REGULAR AGENDA - PROPOSED AGENCY ACTION
-INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: JULY 16, 1998, JULY 20, 1998 - STATUTORY
DEADLINES

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\980532TC.RCM

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 was submitted on a properly completed Form PSC/CMU 2 (12/94).

1.) Docket #980532-TC - Peoples Telephone Company, Inc. - The Waiver Petition was filed on April 17, 1998. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly April 29, 1998. The comment period ended May 23, 1998. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is July 16, 1998.

2.) Docket #980544-TC - Florida Pay Phone Systems, Inc. - The Waiver Petition was filed on April 21, 1998. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly May 6, 1998. The comment period ended May 30, 1998, and no comments were

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FPSC-RECORDS/REPORTING

DOCKET NOS. 980532-TC, 980544-TC
JUNE 4, 1998

submitted. The Statutory Deadline for the Commission's decision regarding this petition is July 20, 1998.

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. (Isler)

STAFF ANALYSIS: Rule 25-24.515(8), Florida Administrative Code, provides in the 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

DOCKET NOS. 980532-TC, 980544-TC
JUNE 4, 1998

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 these dockets should be granted. These waivers are being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. The petitioners have 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.

In addition, the petitioners have demonstrated that granting these waivers will lift the "substantial hardship" that the rule imposes on law enforcement and the location provider.

ISSUE 2: Should these dockets 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. (Cruz-Bustillo)

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.

DOCKET NOS. 980532-TC, 980544-TC
JUNE 4, 1998

<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
980532-TC	Peoples Telephone Co.	941/597-6780	5465 Airport Road	Naples
980544-TC	Florida Pay Phone Sys.	954/779-3010	701 W. Sunrise Blvd.	Ft. Lauderdale
980544-TC	Florida Pay Phone Sys.	954/779-3040	701 W. Sunrise Blvd.	Ft. Lauderdale