



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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DATE: OCTOBER 22, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *DJC*
DIVISION OF LEGAL SERVICES (COX) *WPC* *meb*

RE: DOCKET NO. 980604-TC - REQUEST FOR WAIVER FROM REQUIREMENT OF RULE 25-24.515(8), FLORIDA ADMINISTRATIVE CODE, THAT EACH TELEPHONE STATION SHALL ALLOW INCOMING CALLS BY SPRINT-FLORIDA, INCORPORATED

AGENDA: 11/03/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: STATUTORY DEADLINE - WAIVED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980604.RCM

CASE BACKGROUND

Sprint-Florida, Incorporated (Sprint) submitted a request to block incoming calls at its pay telephone at the Motel 6 located at 1027 Apalachee Parkway, Tallahassee. (ATTACHMENT A) The request was submitted on a properly completed Form PSC/CMU 2 (12/94).

The Waiver Petition was filed on May 1, 1998. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly May 13, 1998. The comment period ended June 6, 1998. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition was waived by Sprint.

This item was deferred from the September 1, 1998 Agenda Conference at the Commissioners' request to allow staff time to gather additional information from the Tallahassee Police Department.

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PSC-RECORDS/REPORTING

The Tallahassee Police Department verbally told staff that the payphone allegedly had drug activity going on around the motel and that the payphone had been used to report crimes. On September 22, 1998, staff wrote the Tallahassee Chief of Police and asked for additional information by October 15, 1998. As of October 22, the Chief of Police had not responded.

Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Sprint-Florida, Incorporated a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone number at the address listed on page 5?

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.

Sprint-Florida, Incorporated submitted a properly completed Request to Block Incoming Calls form for the instrument identified on page 5. (ATTACHMENT A) 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), Sprint 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

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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."

This incoming call waiver request originally appeared on the September 1, 1998 Agenda Conference. The item was deferred at the Commissioners' request to allow staff time to gather additional information from the Tallahassee Police Department.

Verbally, the Tallahassee Police Department advised staff that the payphone at the Motel 6 had drug-related activity going on around the motel. In addition, staff was told that the payphone had been used to report crimes. On September 22, 1998, staff wrote the Tallahassee Police Chief and asked for specific information by October 15, 1998. For example, staff requested the Chief to explain how granting an incoming call waiver would eliminate or help control any criminal activity. Staff also requested any written documentation that would support the request such as police reports, citizen complaints, or community policing action plans. Unfortunately, staff did not receive a reply.

Staff notes that the Police Department verbally stated there was criminal activity going on around the payphone, not that the payphone itself was used in the commission of a crime. Staff also notes that if the incoming call waiver is granted, citizens will continue to be able to report crimes, but they would not be able to receive calls at that payphone.

Accordingly, 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. Sprint has demonstrated that granting this 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 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 prohibition against incoming call blocking would result in substantial hardship for Sprint as the payphone may be used for continuing criminal activity. In addition, Sprint has demonstrated that granting this waiver will

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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. (Cox)

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>
980604-TC	Sprint-Florida, Inc.	850/656-9925	1027 Apalachee Pkwy.	Tallahassee

REQUEST TO BLOCK INCOMING CALLS



PAY TELEPHONE NUMBER: (850) 656-9925

PHYSICAL LOCATION OF PAY TELEPHONE (ADDRESS): Motel 6 #1073
1027 Apalachee Pkwy., Tallahassee, FL 32301

To deter criminal activity facilitated by individuals receiving incoming calls at the pay telephone listed above, I request that I be granted an exemption from the requirement that incoming calls be received at the pay telephone location (Rule 25-24.515(8) or 25-4.076(6), F.A.C., as appropriate). I agree 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 request of law enforcement."

I, the undersigned owner or officer of the pay telephone company named below, have read the foregoing and declare that to the best of my knowledge and belief, the above information is a true and correct statement. 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.

SIGNATURE OF OWNER/OFFICER OF PAY TELEPHONE COMPANY: [Signature] DATE 4-23-98

NAME OF OWNER/OFFICER OF PAY TELEPHONE COMPANY (PRINT OR TYPE): La Velle Rixie

NAME OF PAY TELEPHONE COMPANY: Sprint-Florida

MAILING ADDRESS: P.O. Box 165000

Altamonte Springs, FL 32710-5000
FLA1TD0101

I, the undersigned owner of the above-referenced pay telephone location, declare that to the best of my knowledge and belief, criminal activity is associated with and facilitated by incoming calls being received at the pay telephone number and location referenced above. It is my belief that allowing incoming calls to be blocked at the pay telephone will eliminate or help control that activity and attest to this fact by my signature below. 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.

SIGNATURE OF LOCATION OWNER: [Signature] DATE 3/30/98

NAME OF PAY TELEPHONE LOCATION OWNER (PRINT OR TYPE): Tom Davis

MAILING ADDRESS: Intera Communications

P.O. Box 16347
Minneapolis, MN 55416-0347

I, the undersigned Chief of the law enforcement agency of the jurisdiction in which the above-referenced pay telephone is located, declare that to the best of my knowledge and belief, criminal activity is associated with and facilitated by incoming calls being received at the pay telephone number and location referenced above. It is my belief that allowing incoming calls to be blocked at this pay telephone will eliminate or help control that activity and attest to this fact by my signature below. 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.

SIGNATURE OF CHIEF OF RESPONSIBLE LAW ENFORCEMENT AGENCY: [Signature] DATE 03/30/98

NAME & POSITION/TITLE (PRINT OR TYPE): Walter McNeil, Chief of Police

NAME OF LAW ENFORCEMENT AGENCY: Tallahassee Police Department

MAILING ADDRESS: 234 East Seventh Avenue, Tallahassee, FL 32303