



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SEUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0030

-M-E-M-O-R-A-N-D-U-M-

DATE: MARCH 4, 1999

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *PK*
DIVISION OF LEGAL SERVICES (J. MILLER) *JM MS*

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. 990030-TC - BELLSOUTH PUBLIC COMMUNICATIONS,
INC.
DOCKET NO. ~~990031~~-TC - TELALEASING ENTERPRISES, INC.
DOCKET NO. 990032-TC - TELALEASING ENTERPRISES, INC.
DOCKET NO. 990078-TC - BELLSOUTH PUBLIC COMMUNICATIONS,
INC.

AGENDA: 03/16/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: APRIL 8, 1999, APRIL 8, 1999, APRIL 8, 1999, AND
APRIL 21, 1999 - STATUTORY DEADLINES

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990030.RCM

CASE BACKGROUND

The providers listed on page 5 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 #990030-TC - BellSouth Public Communications, Inc. - The Waiver Petition was filed on January 8, 1999. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly January 28, 1999.

DOCUMENT NUMBER-DATE

~~990030~~ MAR -3 99

FILED-RECORDS/REPORTING

DOCKET NOS. 990030-TC, 990031-TC, 990032-TC, 990078-TC
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The comment period ended February 19, 1999. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is April 8, 1999.

2.) Docket #990031-TC - Telaleasing Enterprises, Inc. - The Waiver Petition was filed on January 8, 1999. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly January 28, 1999. The comment period ended February 19, 1999. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is April 8, 1999.

3.) Docket #990032-TC - Telaleasing Enterprises, Inc. - The Waiver Petition was filed on January 8, 1999. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly January 28, 1999. The comment period ended February 19, 1999. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is April 8, 1999.

4) Docket #990078-TC - BellSouth Public Communications, Inc. - The Waiver Petition was filed on January 21, 1999. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly February 3, 1999. The comment period ended February 26, 1999. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is April 21, 1999.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant each of the providers listed on page 5 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: Prior to February 1, 1999, Rule 25-24.515(8), Florida Administrative Code, provided 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.

On February 1, 1999, the Commission amended the pay telephone rules. Rule 25-24.515(13), F.A.C., provides that pay telephone companies may still petition the Commission for an exemption from the incoming call requirement; however, now the exemption is limited to two years. Although the pay telephone companies listed on page 5 submitted exemptions from the rule in effect at that time, staff believes it should be made clear that, if granted, the exemptions will expire two years from the effective date of the Order. In addition, if needed, the companies may request subsequent two-year exemptions by filing Form PSC/CMU-2 (02/99).

Each company has submitted a properly completed Request to Block Incoming Calls form for each of the instruments identified on page 5. 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 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. A protest in one docket should not prevent the action in a separate docket from becoming final. (Miller)

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. 990030-TC, 990031-TC, 990032-TC, 990078-TC
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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
990030-TC	BellSouth Public Communications, Inc.	305/672-9223	Chamber Lounge 2940 Collins Ave.	Miami
990030-TC	BellSouth Public Communications, Inc.	904/254-8140	Salvation Army 560 Ballough Rd.	Daytona Beach
990030-TC	BellSouth Public Communications, Inc.	904/254-8901	Salvation Army 560 Ballough Rd.	Daytona Beach
990030-TC	BellSouth Public Communications, Inc.	407/277-8509	Shadow Hills MH Park 8338 Millinodett Ln.	Orlando
990030-TC	BellSouth Public Communications, Inc.	954/491-9530	Chamber of Commerce 4201 Ocean Dr.	Lauderdale-By-The-Sea
990031-TC	Telaleasing Enterprises	941/499-0054	Diamond D Food 1345 Kathleen Rd.	Lakeland
990032-TC	Telaleasing Enterprises	941/499-0055	Diamond D Food 1345 Kathleen Rd.	Lakeland
990078-TC	BellSouth Public Communications, Inc.	561/963-8977	Nautica Sound HOA 7000 Chesapeake Cir.	Boynton Beach