



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: MARCH 18, 1999

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Pip*
DIVISION OF LEGAL SERVICES (J. MILLER) *John Miller*

RE: DOCKET NO. 990096-TC - REQUEST FOR WAIVER FROM REQUIREMENT OF RULE 25-24.515(8), FLORIDA ADMINISTRATIVE CODE, THAT EACH TELEPHONE STATION SHALL ALLOW INCOMING CALLS

AGENDA: 03/30/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: APRIL 26, 1999 - STATUTORY DEADLINES

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990096.RCM

RECEIVED-FPSC
99 MAR 18 PM 12:00
RECORDS AND REPORTING

CASE BACKGROUND

The provider listed on page 4 has 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 #990096-TC - BellSouth Public Communications, Inc. - The Waiver Petition was filed on January 26, 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 March 12, 1999. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is April 26, 1999.

Staff believes the following recommendations are appropriate.

DOCUMENT NUMBER-DATE

03521 MAR 18 99

FPSC-RECORDS/REPORTING

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: 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 company listed on page 4 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 company may request subsequent two-year exemptions by filing Form PSC/CMU-2 (02/99).

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

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, 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. (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, this docket should be closed.

DOCKET NOS. 990096 TC
DATE: MARCH 18, 1999

<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
990096-TC	BellSouth Public Communications, Inc.	305/688-9833	4159 NW 135th St.	Opa Locka