



Public Service Commission

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

RECORDS AND
REPORTING

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RECEIVED-FPSC

DATE: MAY 6, 1999

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *PIF*
DIVISION OF LEGAL SERVICES (FORDHAM) *CB*

RE: REQUEST FOR WAIVER FROM REQUIREMENT OF RULE 25-24.515(13),
FLORIDA ADMINISTRATIVE CODE, THAT EACH TELEPHONE STATION
SHALL ALLOW INCOMING CALLS

DOCKET NO. 990363-TC - BELLSOUTH PUBLIC COMMUNICATIONS,
INC.

DOCKET NO. 990376-TC - BELLSOUTH PUBLIC COMMUNICATIONS,
INC.

AGENDA: 05/18/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: JUNE 14, 1999, JUNE 21, 1999 - STATUTORY
DEADLINES

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990363.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 #990363-TC - BellSouth Public Communications, Inc.
- The Waiver Petition was filed on March 15, 1999. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly March 30, 1999. The comment period ended April 23, 1999. No comments were

DOCUMENT NUMBER-DATE

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submitted. The statutory deadline for the Commission's decision regarding this petition is June 14, 1999.

2.) Docket No. 990376-TC - BellSouth Public Communications, Inc. - The Waiver Petition was filed on March 22, 1999. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly March 31, 1999. The comment period ended April 30, 1999. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is June 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: On February 1, 1999, the Commission amended the pay telephone rules. Rule 25-24.515(13), F.A.C., states, in part:

Each pay telephone station shall allow incoming calls to be received at all times, with the exception of those located at hospitals, schools, and locations specifically exempted by the Commission. There shall be no charge for receiving incoming calls.

The amended rule 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. 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 the form, 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. (Fordham)

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.

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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
990363-TC	BellSouth Public Cmus.	305/295-8513	City of Key West 1700 Duck Avenue	Key West
990363-TC	BellSouth Public Cmus.	305/295-8401	City of Key West 1700 Duck Avenue	Key West
990376-TC	BellSouth Public Cmus.	407/768-9855	Lil' Champs Food Store 2595 Emerson Dr. SE	Palm Bay
990376-TC	BellSouth Public Cmus.	407/725-8412	Lil' Champs Food Store 2595 Emerson Dr. SE	Palm Bay
990376-TC	BellSouth Public Cmus.	407/768-9929	Lil' Champs Food Store 2595 Emerson Dr. SE	Palm Bay