



Public Service Commission

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RECORDS AND REPORTING

DATE: MARCH 16, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Dir AD*
DIVISION OF LEGAL SERVICES (CLEMONS) *QMC*

RE: DOCKET NO. 000063-TC - REQUEST FOR EXEMPTION FROM REQUIREMENT OF RULE 25-24.515(13), F.A.C., THAT EACH PAY TELEPHONE STATION SHALL ALLOW INCOMING CALLS, BY PAYPHONE CONNECTION INC.

AGENDA: 03/28/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: APRIL 20, 2000 - STATUTORY DEADLINE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\000063.RCM

CASE BACKGROUND

The provider listed on page 4 has submitted one or more requests to block incoming calls at its pay telephones. Each of the requests was submitted on a properly completed Form PSC/CMU 2 (02/99).

The Exemption Petition was filed on January 21, 2000. The Notice of Petition for Exemption was submitted to the Secretary of State for publication in the Florida Administrative Weekly February 2, 2000. The comment period ended February 25, 2000. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is April 20, 2000.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the provider listed on page 4 an exemption 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(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 rule provides that pay telephone companies may petition the Commission for an exemption from the incoming call requirement; however, 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).

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 the form, the 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 exemptions requested in this docket should be granted. These exemptions are being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. The petitioner has demonstrated that granting these exemptions 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.

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In addition, the petitioner has demonstrated that granting these exemptions 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 upon issuance of a Consummating Order 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 order. (Clemons)

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 upon the issuance of a Consummating Order.

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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
000063-TC	Payphone Connection	(904) 238-8968	Breakers Beach Motel 27 S. Ocean Avenue	Daytona Beach
000063-TC	Payphone Connection	(904) 258-9643	Breakers Beach Motel 27 S. Ocean Avenue	Daytona Beach