

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from requirements of Rule 25-24.515(13), F.A.C., that each pay telephone station shall allow incoming calls, by Telaleasing Enterprises, Inc.

DOCKET NO. 000447-TC
ORDER NO. PSC-00-1215-PAA-TC
ISSUED: July 6, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING EXEMPTION FROM RULE 25-24.515(13)

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

Telaleasing Enterprises, Inc. has submitted a request to block incoming calls at a pay telephone. The request was submitted on a properly completed Form PSC/CMU 2 (02/99). The Exemption Petition was filed on April 17, 2000. The Notice of Petition for Exemption was submitted to the Secretary of State for publication in the Florida Administrative Weekly May 3, 2000. The comment period ended May 26, 2000. No comments were submitted.

Rule 25-24.515(13), Florida Administrative Code, states, in part:

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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 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 the instrument located at Gator Liton Square, 1563 South Congress Avenue, Delray Beach, Florida, with the telephone number (561) 266-8883. We have 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 as required by Rule 25-24.515, Florida Administrative Code. 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."

We find that the exemption requested in this docket should be granted. The exemption is being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. The petitioner has demonstrated that granting this exemption 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 this exemption will lift the "substantial hardship" that the rule imposes on law enforcement and the location provider.

Based on the foregoing, it is therefore,

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ORDERED by the Florida Public Service Commission that the waiver of Rule 25-24.515(13), Florida Administrative Code, filed by Telaleasing Enterprises, Inc. at the pay telephone location stated in the body of this Order is granted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 6th day of July, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 27, 2000.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.