



Public Service Commission

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DATE: OCTOBER 22, 1998

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

FROM: DIVISION OF COMMUNICATIONS (ISLER) *Dji*
DIVISION OF LEGAL SERVICES (WATTS) *CBW b12/2 MEB*

RE: DOCKET NO. 980763-TC - REQUEST FOR WAIVER FROM REQUIREMENT OF RULE 25-24.515(8), FLORIDA ADMINISTRATIVE CODE, THAT EACH TELEPHONE STATION SHALL ALLOW INCOMING CALLS BY PEOPLES TELEPHONE COMPANY, INC.

AGENDA: 11/03/98 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: STATUTORY DEADLINE - WAIVED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980763.RCM

CASE BACKGROUND

Peoples Telephone Company, Inc. submitted a request to block incoming calls at its pay telephone at the Kennedy Drive Trailer Park located at 1521 Lake Bradford Road, Tallahassee. (ATTACHMENT A) The request was submitted on a properly completed Form PSC/CMU 2 (12/94).

The Waiver Petition was filed on June 17, 1998. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly July 14, 1998. The comment period ended August 7, 1998. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition was waived by Peoples Telephone.

This item was deferred from the September 1, 1998 Agenda Conference at the Commissioners' request to allow staff time to

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gather additional information from the Tallahassee Police Department.

The Tallahassee Police Department verbally told staff that the payphone is in a high-crime area and that from January, 1997 to the present, the payphone had been used 21 times to report problems ranging from domestic violence to drug-related crimes. Staff wrote the Tallahassee Chief of Police and asked for additional information by October 15, 1998. As of October 16, the Chief of Police had not responded.

Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Peoples Telephone Company, Inc. a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone number at the address listed on page 5?

RECOMMENDATION: Yes. (Isler)

STAFF ANALYSIS: Rule 25-24.515(8), Florida Administrative Code, provides 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.

Peoples Telephone Company, Inc. submitted a properly completed Request to Block Incoming Calls form for the instrument identified on page 5. (ATTACHMENT A) Staff has 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.

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By signing FORM PSC/CMU-2 (12/94), Peoples 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."

This incoming call waiver request originally appeared on the September 1, 1998 Agenda Conference. The item was deferred at the Commissioners' request to allow staff time to gather additional information from the Tallahassee Police Department.

Verbally, the Tallahassee Police Department advised staff that the payphone at the trailer park is in a high-crime area and that from January 1997 to the present, the payphone had been used 21 times to report problems ranging from domestic violence to drug-related crimes. On September 22, 1998, staff wrote the Tallahassee Police Chief and asked for specific information by October 15, 1998. For example, staff requested the Chief to explain how granting an incoming call waiver would eliminate or help control any criminal activity. Staff also requested any written documentation that would support the request such as police reports, citizen complaints, or community policing action plans. Unfortunately, staff did not receive a reply.

If the Commission starts receiving complaints from residents of the trailer park about not being able to receiving incoming calls, staff can review this waiver request and bring it back before the Commission. Also, if the incoming call waiver is granted, citizens will continue to be able to report crimes, they just would not be able to receive calls at that payphone.

Accordingly, staff recommends that the waiver requested in this docket should be granted. The waiver is being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. Peoples Telephone has demonstrated that granting this waiver 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. Staff also believes that by granting this waiver request, the Commission would be acting in the public interest with regard to pay telephone service under Chapter 364.01 and 364.3375, Florida Statutes, in an effort to prevent criminal activity. Further, enforcement of the prohibition against

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incoming call blocking would result in substantial hardship for Peoples Telephone as the payphone may be used for continuing criminal activity. In addition, Peoples Telephone has demonstrated that granting this waiver 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. (Watts)

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.

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<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
980763-TC	Peoples Telephone Co.	850/574-1962	1521 Lake Bradford Rd.	Tallahassee

FLORIDA PUBLIC SERVICE COMMISSION
REQUEST TO BLOCK INCOMING CALLS

PAY TELEPHONE NUMBER: 574-574-6162

PHYSICAL LOCATION OF PAY TELEPHONE (ADDRESS): FEDERAL JUDGE TISCARIS
1521 W. BARKER RD, TOLUKESE FL 32510

To deter criminal activity facilitated by individuals receiving incoming calls at the pay telephone listed above, I request that I be granted an exemption from the requirement that incoming calls be received at the pay telephone location (Rule 25-24.51(9) or 25-4.07(6), F.A.C., as appropriate). I agree to provide central office based service at no charge to the end-user and to promptly display a written notice directly above or below the telephone number which states: "Incoming calls blocked at the request of law enforcement."

I, the undersigned owner or officer of the pay telephone company named below, have read the foregoing and declare that to the best of my knowledge and belief, the above information is a true and correct statement. I am aware that pursuant to Section 837.06, Florida Statute, whoever knowingly makes a false statement in writing with the intent to obtain a public service in the performance of his official duty shall be guilty of a misdemeanor of the second degree.

SIGNATURE OF OWNER/OFFICER OF PAY TELEPHONE COMPANY: Bruce Ronald DATE: 5.30.98

NAME OF OWNER/OFFICER OF PAY TELEPHONE COMPANY (PRINT OR TYPE): Bruce Ronald, EVR Regulatory Affairs

NAME OF PAY TELEPHONE COMPANY: PROFESSIONAL TELEPHONE COMPANY INC

MAILING ADDRESS: 2988 NW 87TH PLACE MIAMI FLORIDA 33172

I, the undersigned owner of the above-referenced pay telephone location, declare that to the best of my knowledge and belief, criminal activity is associated with and facilitated by incoming calls being received at the pay telephone number and location referenced above. It is my belief that allowing incoming calls to be blocked at the pay telephone will eliminate or help control that activity and attest to this fact by my signature below. I am aware that pursuant to Section 837.06, Florida Statute, 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.

SIGNATURE OF LOCATION OWNER: [Signature] DATE: 10 April 98

NAME OF PAY TELEPHONE LOCATION OWNER (PRINT OR TYPE): JAMES W BAKER III

MAILING ADDRESS: 1521 W Barker Road Tall. FL 32310

I, the undersigned Chief of the law enforcement agency of the jurisdiction in which the above-referenced pay telephone is located, declare that to the best of my knowledge and belief, criminal activity is associated with and facilitated by incoming calls being received at the pay telephone number and location referenced above. It is my belief that allowing incoming calls to be blocked at this pay telephone will eliminate or help control that activity and attest to this fact by my signature below. I am aware that pursuant to Section 837.06, Florida Statute, 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.

SIGNATURE OF CHIEF OF RESPONSIBLE LAW ENFORCEMENT AGENCY: [Signature] DATE: 02/23/98

NAME & POSITION/TITLE (PRINT OR TYPE): Chief, Lake Ute Dist

NAME OF LAW ENFORCEMENT AGENCY: Tallahassee Police Department

MAILING ADDRESS: 254 E 7th Avenue Tallahassee FL 32301