



# Public Service Commission

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

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RECORDS AND REPORTING

**DATE:** JANUARY 21, 1999

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

**FROM:** DIVISION OF LEGAL SERVICES (MILLER) *Jan mcb*  
DIVISION OF COMMUNICATIONS (MCCOY) *sm lu*

**RE:** DOCKET NO. 981801-TC - REQUEST FOR EXEMPTION FROM REQUIREMENT OF RULE 25-24.515(8), F.A.C., THAT EACH PAY TELEPHONE STATION SHALL ALLOW INCOMING CALLS, BY PEOPLES TELEPHONE COMPANY, INC.

**AGENDA:** 2/2/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

**CRITICAL DATES:** MARCH 2, 1999 - 90 DAY STATUTORY DEADLINE

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\CMU\WP\981801TC.RCM

### CASE BACKGROUND

Peoples Telephone Company, Inc. 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 #981801-TC - BellSouth Public Communications, Inc. - The Waiver Petition was filed on December 2, 1998. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly December 15, 1998. The comment period ended January 8, 1999, and no comments were submitted. The Statutory Deadline for the Commission's decision regarding this petition is March 2, 1999.

Staff believes the following recommendation is appropriate.

DOCUMENT NUMBER-DATE

00787 JAN 21 99

FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the provider listed on page 3 a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone number at the address listed?

RECOMMENDATION: Yes. (McCoy)

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

The company has submitted a properly completed Request to Block Incoming Calls form for the instrument identified on page 3. 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.

By signing FORM PSC/CMU-2 (12/94), 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 waiver requested in the docket should be granted. The waiver is being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. The petitioners have demonstrated that granting the waiver will not impede the continued provision of pay telephone service to the

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using public as intended by the underlying statute, Chapter 364.345, Florida Statutes.

In addition, the petitioner has demonstrated that granting the 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. (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.

<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
981801-TC	Peoples Telephone Company, Inc.	954/781-9291	337 West 1 Court	Pompano Beach