

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for exemption ) DOCKET NO. 940731-TC  
from Rule 25-4.076, F.A.C., ) ORDER NO. PSC-94-1161-FOF-TC  
respecting certain pay telephone ) ISSUED: September 21, 1994  
locations, by GTE FLORIDA )  
INCORPORATED. )  
\_\_\_\_\_)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING REQUEST FOR EXEMPTION FROM  
RULE 25-4.076(6), FLORIDA ADMINISTRATIVE CODE

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.

On July 11, 1994, GTE Florida Incorporated (GTE) filed a request for exemption from the Rule 25-4.076(6), Florida Administrative Code, requirement that pay telephones receive incoming calls for 19 pay telephone instruments located at 19 Wendy's Restaurants in various Florida cities. We deny GTE's request.

In its petition, GTE asserts, "These pay telephone locations have been experiencing problems with loitering, particularly after hours, which poses a significant threat to the ability of Wendy's to offer its legitimate customers a comfortable and secure dining environment." GTE further argues that blocking incoming calls would impair the use of the telephones "in conducting possibly illegal activities."

Rule 25-4.076(6), Florida Administrative Code, states, in pertinent part, "Each telephone station shall allow incoming calls to be received, with the exception of those located at penal

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institutions, hospitals, and schools and at locations specifically exempted by the Commission." The Rule does not require us to grant all such requests. In previous cases, we have granted exemptions to the incoming call requirement when local law enforcement officials have joined the company in the request. See Orders PSC-94-0825-FOF-TL and PSC-94-0826-FOF-TL. In those cases, law enforcement officers agreed that blocking incoming calls would help deter criminal activity at the affected pay telephones. GTE did not indicate what kind of criminal activity was occurring at Wendy's or explain exactly how Wendy's customers were in danger. We informed GTE that it should provide proof that local law enforcement officials agreed that blocking incoming calls at Wendy's pay phones would deter criminal activity. GTE chose not to provide that documentation.

Our Rules do not require us to grant all requests for exemptions from the Rule 25-4.076(6), Florida Administrative Code, requirement that pay telephones receive incoming calls so we consider each request on a case by case basis. GTE chose not to provide law enforcement documentation that blocking incoming calls would deter criminal activity. Therefore, we deny GTE's request.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that GTE Florida Incorporated's request for an exemption from the Rule 25-4076(6), Florida Administrative Code, requirement that pay telephones receive incoming calls is denied. It is further

ORDERED that, unless a person whose substantial interests are affected files a protest in the form and prior to the expiration of the date set forth in the Notice of Further Proceedings or Judicial Review, below, this docket shall be closed on the following date.

By ORDER of the Florida Public Service Commission, this 21st day of September, 1994.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay DeLeon  
Chief, Bureau of Records

( S E A L )  
LMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on October 12, 1994.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.