



Public Service Commission
REPORTING
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: JULY 09, 1998

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

FROM: DIVISION OF LEGAL SERVICES (OTTINOT) *MS MB*
DIVISION OF COMMUNICATIONS (MCCOY) *jm*

RE: DOCKET NO. 980651 - REQUEST FOR EXEMPTION FROM REQUIREMENT OF RULE 25-24.515(8), F.A.C., THAT EACH PAY TELEPHONE STATION SHALL ALLOW INCOMING CALLS, BY PHONETEL TECHNOLOGIES, INC.

AGENDA: JULY 21, 1998 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: AUGUST 12, 1998, - 90 DAY STATUTORY DEADLINE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980651.RCM

CASE BACKGROUND

PhoneTel Technologies, Inc. (Phonetel) initially submitted a request to block incoming calls at thirty-six pay telephones in the West Oaks Mall, Ocoee, Florida. Each of the requests was submitted on a properly completed Form PSC/CMU 2 (12/94).

Staff investigated the request by PhoneTel to block incoming calls to the pay telephones and after conversations with the West Oaks Mall Management, the Police Chief of Ocoee, and after reviewing the West Oaks Mall police criminal activity reports, staff determined that only eight of the thirty-six pay phones need exemption from Rule 25-24.515 (8), F.A.C.

PhoneTel revised its request and asked that only the eight pay telephones be exempt from Rule 25-24.515 (8), F.A.C.

The Waiver Petition was filed on May 14, 1998. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly May 26, 1998. The comment period ended June 19, 1998. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is August 12, 1998.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant PhoneTel a waiver from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed?

RECOMMENDATION: Yes. (McCoy)

The Commission should grant the waiver requests for the pay telephone numbers listed on page 4.

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.

PhoneTel 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 FORM PSC/CMU-2 (12/94), each 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 a waiver should be granted for the eight pay telephones listed in page 4. These waivers are being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. The petitioner has submitted police criminal activity reports related to the eight pay telephones. The police criminal activity reports discuss gang related activities and other illegal activities involving these eight pay telephones. The petitioner has demonstrated that granting these waivers 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 these waivers will lift the "substantial hardship" that the rule imposes on law enforcement and the location provider.

ISSUE 2: Should these dockets 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. (Ottinot)

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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DATE: JULY 09, 1998

<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
980651-TC	PhoneTel Technologies, Inc.	407/523-1935	9401 W.Colonial Drive	Ocoee
980651-TC	PhoneTel Technologies, Inc.	407/523-1780	9401 W.Colonial Drive	Ocoee
980651-TC	PhoneTel Technologies, Inc.	407/291-8740	9401 W.Colonial Drive	Ocoee
980651-TC	PhoneTel Technologies, Inc.	407/523-1771	9401 W.Colonial Drive	Ocoee
980651-TC	PhoneTel Technologies, Inc.	407/523-1770	9401 W.Colonial Drive	Ocoee
980651-TC	PhoneTel Technologies, Inc.	407/296-8747	9401 W.Colonial Drive	Ocoee
980651-TC	PhoneTel Technologies, Inc.	407/296-8345	9401 W.Colonial Drive	Ocoee
980651-TC	PhoneTel Technologies, Inc.	407/523-1772	9401 W.Colonial Drive	Ocoee