



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: MARCH 16, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (ISLER) *Pyg*
DIVISION OF LEGAL SERVICES (STERN) *MKS*

RE: REQUEST FOR EXEMPTION FROM REQUIREMENT OF RULE 25-24.515(13), F.A.C., THAT EACH PAY TELEPHONE STATION SHALL ALLOW INCOMING CALLS

DOCKET NO. 000064-TC - BELLSOUTH PUBLIC COMMUNICATIONS, INC.

DOCKET NO. 000092-TC - SPRINT PAYPHONE SERVICES, INC.

AGENDA: 03/28/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: APRIL 20, 2000 AND MAY 1, 2000 - STATUTORY DEADLINES

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\000064.RCM

RECORDS AND REPORTING
APR 15 AM 9:50
RECEIVED-PSC

CASE BACKGROUND

The providers listed on page 5 have 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 (02/99).

1.) Docket No. 000064-TC - BellSouth Public Communications, Inc. - The Exemption Petition was filed on January 21, 2000. The Notice of Petition for Exemption was submitted to the Secretary of State for publication in the Florida Administrative Weekly February 2, 2000. The comment period ended February 25, 2000. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is April 20, 2000.

DOCUMENT NUMBER-DATE

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2.) Docket No. 000092-TC - Sprint Payphone Services, Inc. - The Exemption Petition was filed on January 26, 2000. The Notice of Petition for Exemption was submitted to the Secretary of State for publication in the Florida Administrative Weekly February 9, 2000. The comment period ended March 3, 2000. No comments were submitted. The statutory deadline for the Commission's decision regarding this petition is May 1, 2000.

Staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant each of the providers listed on page 5 an exemption from the requirement that each telephone station shall allow incoming calls for the pay telephone numbers at the addresses listed?

RECOMMENDATION: Yes. (Isler)

STAFF ANALYSIS: Rule 25-24.515(13), F.A.C., states, in part:

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 the Commission 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).

Each company has submitted a properly completed Request to Block Incoming Calls form for each of the instruments identified on page 5. 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 the form, 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 the exemptions requested in these dockets should be granted. These exemptions are being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. The petitioners have demonstrated that granting these exemptions 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.

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In addition, the petitioners have demonstrated that granting these exemptions 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, these dockets should be closed upon issuance of a Consummating Order 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 order. A protest in one docket should not prevent the action in a separate docket from becoming final. (Stern)

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, these dockets should be closed upon the issuance of a Consummating Order. A protest in one docket should not prevent the action in a separate docket from becoming final.

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| <u>DOCKET NO.</u> | <u>PROVIDER</u> | <u>PHONE NUMBER</u> | <u>ADDRESS</u> | <u>CITY</u> |
|-------------------|--------------------------|---------------------|---|-------------|
| 000064-TC | BellSouth Public Cmus. | (305) 292-1754 | Caribbean House 226 Petronia Street | Key West |
| 000092-TC | Sprint Payphone Services | (850) 913-9039 | Blue Bay Motor Lodge 3407 W. Hwy. 98 | Panama City |