



Public Service Commission

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

RECORDS AND REPORTING

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RECEIVED-FPSC

DATE: JULY 23, 1998

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

FROM: DIVISION OF LEGAL SERVICES (OTTINOT) *MCB*
DIVISION OF COMMUNICATIONS (MCCOY) *MC*

RE: DOCKET NO. 980727 - REQUEST FOR EXEMPTION FROM REQUIREMENT OF RULE 25-25.515(8), F.A.C., THAT EACH PAY TELEPHONE STATION SHALL ALLOW INCOMING CALLS, BY BELLSOUTH PUBLIC COMMUNICATIONS, INC.

AGENDA: AUGUST 04, 1998 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: SEPTEMBER 07, 1998 - 90 DAY STATUTORY DEADLINE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980727.RCM

CASE BACKGROUND

BellSouth Public Communications Inc. (BellSouth) 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 #980727-TC - BellSouth Public Communications, Inc. - The Waiver Petition was filed on June 09, 1998. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly June 23, 1998. The comment period ended July 17, 1998, and no comments were submitted. The Statutory Deadline for the Commission's decision regarding this petition is September 07, 1998.

Staff believes the following recommendation is appropriate.

DOCUMENT NUMBER-DATE

07603 JUL 20 88

FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant BellSouth 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 3.

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.

BellSouth submitted a properly completed Request to Block Incoming Calls form for each of the instruments identified on page 3. Staff has reviewed each form and further investigated the request by contacting the pay telephone location provider, Denny's Restaurant No. 1364. After speaking with Management at Denny's, staff learned that the pay telephones are inside the restaurant and near the rest rooms. Denny's Management wants to block incoming pay telephone calls because it is concerned that non-restaurant patrons are loitering around the pay telephones and engaging in suspicious activity related to the pay telephones. Denny's Management, in conjunction with the Lauderhill Police Department, requested the waiver. The Lauderhill Police Department has provided written documentation of the criminal activity observed occurring at these pay telephones by the officers on duty. These pay telephones are being used for drug solicitation and distribution. The drug transfer is suspected to occur in the Denny's rest rooms.

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 approved. These waivers are being requested in accordance with the requirements of Chapter 120.542(2), Florida Statutes. The petitioner has demonstrated that granting the 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.

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. (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. A protest in one docket should not prevent the action in a separate docket from becoming final.

<u>DOCKET NO.</u>	<u>PROVIDER</u>	<u>PHONE NUMBER</u>	<u>ADDRESS</u>	<u>CITY</u>
980727-TC	BellSouth Public Communications, Inc.	954/733-9623	5580 West Oakland Park Blvd.	Lauderhill
980727-TC	BellSouth Public Communications, Inc.	954/733-9629	5580 West Oakland Park Blvd.	Lauderhill