

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for exemption from orders, rules, and regulations which prohibit concentration of line services for calls made from store-and-forward pay telephones located in confinement institutions, by Sprint Communications Company Limited Partnership.

DOCKET NO. 970535-TC  
ORDER NO. PSC-97-0946-FOF-TC  
ISSUED: August 7, 1997

The following Commissioners participated in the disposition of this matter:

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

ORDER GRANTING WAIVER

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.

I. CASE BACKGROUND

Sprint Communications Company Limited Partnership (Sprint LP) holds Pay Telephone Certificate No. 5359, with an effective regulation date of June 11, 1997. Presently, Sprint LP does not provide service within the State of Florida.

On May 6, 1997, Sprint LP filed a petition for waiver of those rules and policies currently prohibiting Sprint LP from installing concentrators to allow up to three instruments per access line for its payphones located in confinement facilities. The Notice of

DOCUMENT NUMBER-DATE

08040 AUG-75

FPSC-RECORDS/REPORTING

Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly pursuant to Section 120.542, Florida Statutes. No comments were submitted during the comment period, which ended June 6, 1997. The petition is more properly a petition for exemption authorized by Rule 25-24.505(3), Florida Administrative Code.

By Order No. 14529, issued July 1, 1985, we required that only one pay telephone instrument be installed per access line. Local exchange company (LEC) tariffs generally reflect this requirement and contain language requiring pay telephone providers to order a separate public telephone access line for each telephone instrument installed. In addition, the provisions of Rule 25-24.515(9), Florida Administrative Code, require each telephone instrument to be connected as provided in the LEC's access tariff.

## II. DISCUSSION

We believe that granting this waiver petition is reasonable. First, confinement facilities have their own emergency response systems in place, and Rule 25-24.515(15), Florida Administrative Code, exempts payphones located in confinement facilities from the requirement to provide access to 911. For this reason, the concern with inmates getting a busy signal when they try to reach emergency services is moot.

Secondly, we have already granted similar waivers to ATN, Inc., North American InTeleCom, Inc., BellSouth Telecommunications, MCI Telecommunications Corporation and Gateway Technologies, Inc. to provide up to three to one line concentration within inmate facilities.

We believe that a three to one ratio of payphones to access lines, or the equivalent thereof on T-1 facilities, will allow adequate access to telephone service by the inmate population. However, if the administrators of a correctional facility are not satisfied with the level of access, we believe that Sprint LP will be responsive to the facility as failure to do so might jeopardize its contract for pay telephone service.

We find that Sprint LP's petition should be granted under the authority of Chapter 120.542, Florida Statutes. Sprint LP has demonstrated that the purpose of Chapter 364.01 and 364.3375, Florida Statutes, will be served in granting this waiver request, as adequate pay telephone service will be maintained. Moreover, Chapter 364, Florida Statutes, does not specifically address the inmate payphone environment. Sprint LP has demonstrated that the

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enforcement of this requirement, one to one concentration, would cause substantial hardship on Sprint LP and the Department of Corrections as it would force the purchase of more pay telephone access lines than are necessary.

### III. CONCLUSION

Upon consideration, we hereby grant the exemption for Sprint LP's pay telephones located in confinement facilities to allow a concentration of no more than three pay telephone instruments per access line, or the equivalent thereof on T-1 facilities.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Sprint Communications Company Limited Partnership's petition for waiver to allow a concentration of no more than three pay telephone instruments per access line, or the equivalent thereof on T-1 facilities, for its pay telephones located in confinement facilities is hereby granted. It is further

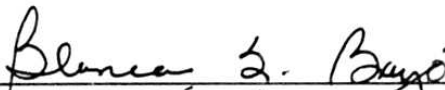
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that a protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent Sprint Communications Company Limited Partnership from using a concentration of no more than three pay telephone instruments per access line in a non-protesting LEC's territory. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 7th  
day of August, 1997.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

WPC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 28, 1997.

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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 substantially 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.