

FLORIDA PUBLIC SERVICE COMMISSION  
Capital Circle Office Center • 2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

MEMORANDUM

December 26, 1997

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

FROM: DIVISION OF COMMUNICATIONS (HAWKINS) *BHH*  
DIVISION OF LEGAL SERVICES (PELLEGRINI) *MCB*

RE: DOCKET NO. 961142-TC - EQUITY PAY TELEPHONE CO., INC. -  
INITIATION OF SHOW CAUSE PROCEEDINGS FOR VIOLATION OF  
RULE 25-24.510, FLORIDA ADMINISTRATIVE CODE, CERTIFICATE  
OF PUBLIC CONVENIENCE AND NECESSITY REQUIRED

AGENDA: JANUARY 7, 1997 - REGULAR AGENDA - INTERESTED PERSONS MAY  
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\961142.RCM

CASE BACKGROUND

On July 2, 1996, staff completed an evaluation of a pay phone located at Harvey's Supermarket, 2526 South Monroe Street, Tallahassee, Florida (904/942-4365) and found it to be in apparent violation of Rule 25-24.515, Florida Administrative Code. Upon contacting the provider listed on the phone, Equity Pay Telephone Co., Inc., (Equity) it was discovered that Equity was not a certificated company and the phone was installed under the certificate number of Brooks L. Webb and Tom Marshall d/b/a 5 Sons International, Inc. (5 Sons.) Staff contacted Mr. Marshall July 3, 1996 requesting that he correct the problems. Mr. Marshall informed staff that the phones did not belong to him. Realizing there were problems with the certification and ownership of the phones, Mr. Marshall contacted Sprint-United August 1, 1996 and requested the service be disconnected. Therefore, the violations have not been corrected and the phone has no dial tone to make other necessary checks.

Equity is owned and operated by Robert T. and Kelly M. Furlong in Guyton, Georgia and has been in operation since 1985. Equity does business in South Carolina, North Carolina and Georgia.

DOCUMENT NUMBER-DATE  
13716 DEC 26 97  
FPSC-RECORDS/REPORTING

DOCKET NO. 961142-TC  
DATE: DECEMBER 26, 1996

Equity initially owned and operated pay phones with the intent of selling them to 5 Sons, who ordered lines on behalf of Equity from Centel of Florida/Sprint. The lines were to be turned over to 5 Sons once the sale was completed.

All phone bills were mailed to Equity by 5 Sons for payment, since they were still collecting coins from the payphones. In the final analysis, no deal was negotiated and Equity kept its phones and continued to operate without a certificate. Equity informed staff that it applied for certification with the PSC in November of 1995. According to the Commission records, staff did not receive an application prior to the September 1996 filing of a copy of the application allegedly filed in 1995. Because the PSC received a copy of an application on September 23, 1996, staff requested that Ms. Furlong submit an original application for filing. According to Ms. Furlong, Equity's only intent in the state of Florida was to service the Harvey's Supermarket account with two pay phones.

A certified letter dated August 3, 1996 was sent to Equity explaining about its certification obligation. Along with a letter dated September 19, 1996, the company submitted a copy of a pay telephone application and payment of the \$100 application fee. Furthermore, it is offering a settlement of \$2,403.83, the net income from the phones located in Florida, to be paid to the Public Service Commission and forwarded to the Comptroller for deposit in the General Revenue Fund pursuant to 364.285(1), Florida Statute. Ms. Furlong has agreed to bring all payphones into compliance with PSC rules and regulations.

#### DISCUSSION OF ISSUES

ISSUE 1: Should the Commission accept the settlement offer proposed by Equity Pay Telephone Co., Inc. to resolve the apparent violation of Rule 25-24.510, Florida Administrative Code?

RECOMMENDATION: Yes.

DOCKET NO. 961142-TC  
DATE: DECEMBER 26, 1996

**STAFF ANALYSIS:** In recognition of its apparent violation of the Commission's requirement of certification of public convenience and necessity, Equity submitted the following settlement offer:

- Submitted application and \$100 non-refundable application fee to become certificated, and;
- Pay \$2,403.83 to the Commission, the net income from the pay phones operated without certification.

Equity informed staff that the reason it did not apply initially for certification was due to a lack of communication and follow-up between them and 5 Sons and that the sale of equipment fell through.

Staff recommends that Equity's settlement proposal be accepted in lieu of ordering the company to show cause why it should not be penalized pursuant to Section 364.285, Florida Statutes. The settlement amount of \$2,403.83 should be forwarded to the Comptroller's Office for deposit in the General Revenue Fund.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** This docket should be closed upon remittance of the settlement amount.

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in Issue 1, then Equity will have 30 days from the date the Order becomes final in which to remit the settlement payment of \$2,403.83. This docket should be closed upon remittance of the settlement amount.

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



DIVISION OF COMMUNICATIONS  
WALTER D'HAESELEER  
DIRECTOR  
(904) 413-6600

## Public Service Commission

August 13, 1996

### CERTIFIED

Ms. Kelly Furlong  
Equity Pay Telephone Company  
5747 Highway 17 North  
Gayton, GA 31312

Dear Ms. Furlong:

It has come to my attention that you have been providing pay telephone service in the State of Florida for almost one year by using the certificate number of 5 Sons International, Inc. 5 Son's has notified me that it has terminated service to 5 of your telephones located here in Tallahassee.

Please provide a response in writing by August 28, 1996, of the locations and telephone numbers of any other pay telephones you are operating in this state. Furthermore, please explain in your response why you should not be ordered to show cause in writing of why you should not be fined for operating without a certificate. The Commission has the authority to fine a company up to \$25,000 per day for each day it is found to be in violation of the rules.

If you have questions, please contact me at 904/413-6582.

Sincerely,

Rick Moses  
Engineer Supervisor  
Bureau of Service Evaluation

Record # 2026



PAY TELEPHONE CO., INC.

5747 HIGHWAY 17 NORTH, GUYTON, GA 31312 (912) 754-7220  
FAX (912) 754-1205

95 AUG 27 11 7:00

"The Coin Telephone Specialists"  
Since 1985

August 26, 1996

Florida Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Blvd.  
Tallahassee, Fl 32399-0850



RE: Record # 2026

Dear Mr. Moses:

This is in reference to your letter dated August 13, 1996 concerning our company using the certificate number of 5 Sons International, Inc.

At present, we have the following phones:

- \* Harvey's Supermarket # 62  
102 East 1st Avenue  
Havana, Fl 34333  
(904) 539-9087
- \* Harvey's Supermarket # 63  
5010 West Tennessee  
Tallahassee, Fl 32304  
(904) 575-6705  
(904) 575-6864  
(904) 575-6934
- \* Harvey's Supermarket # 64  
2526 South Monroe  
Tallahassee, Fl. 32304  
(904) 942-2940  
(904) 942-4365

We had applied for a certificate at the end of 1995. We have made several telephone calls to the Florida PSC, none of which were returned. We were offered by 5 Sons to purchase this equipment because our certificate was delayed.

We never intended to have any violations with the State of Florida. Our main concern aside from selling the equipment was only to service our account J.H. Harvey Company, Inc. in the cities specified above.

We apologize and do not expect to be a major player in Florida. These are the only phones installed and have put off the installation of additional phones at these locations until such time as we received our own certificate from Florida, if the phones were not sold. We are still looking for a buyer for this equipment, especially since things have gone astray with 5 Sons.

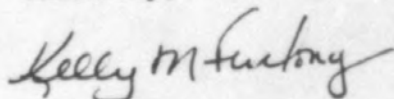
If the Commission could so rule, as our phones are (were) programmed and in compliance with the rules and regulations of The State Of Florida, or perhaps we could be granted an interim certificate number for such a small number of phones.

In closing, again we sincerely apologize for using 5 Sons certificate number, but only did in the efforts of selling the equipment while servicing our account.

One last and final note, I have enclosed a copy of the certificate to transact business in the State of Florida, in hopes that you might see that we were not acting totally irresponsible.

Please contact me concerning this letter and also if someone could contact us about our certificate number which is still pending.

Sincerely,



Kelly M. Furlong



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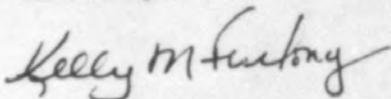
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Kelly M. Furlong





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FAX (912) 754-1205

*cmc / moses*

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Capital Circle Office Center  
Division of Records and Reporting  
2540 Shumard Oak Blvd.  
Tallahassee, Fl 32399-0850

"The Coin Telephone Specialists"  
Since 1985



September 17, 1996

Attention: MR. RICHARD MOSES

RE: RECORD # 2026

Dear Mr. Moses:

This letter is in regards to our conversation yesterday and will serve the following purposes:

- a.) Rule To Show Cause NOT to be issued against Equity Pay Telephone Co., Inc.
- b.) An "Offer of Settlement" for operating without a Florida certificate.
- c.) Re-Submission of copy of original application for certification dated November 10, 1995.

We would request that a "Rule To Show Cause" NOT be issued against Equity Pay Telephone Co., Inc. As stated in my letter of August 26, 1996, we did apply for certification within the State of Florida to operate pay telephones. I personally made our request for application in February of 1995. I have the original fax sent to our attorney in Savannah requesting Equity's Articles of Incorporation which were required on the application form. This was done at the time when "talk" between 5 Sons International, Inc. started to break down. The original application, along with the Articles of Incorporation, several copies of the application and other forms required were sent to the Florida Public Service Commission via U.S. Mail between the 2nd and 3rd weeks of November 1995.

I spoke with someone within the Division of Communications concerning the status of our certification towards the end of January, possibly the first week of February 1995. The person I spoke with could not give me any information I requested, but did give me the name of Mr. McClellan or Mr. McCullough (not sure of the pronunciation) and a telephone number of (904) 488-1280. I left 3 or 4 messages on this person's voice mail

during this time and another 2 in July/August of this year. Those calls were not returned to me, nor any other name or number given to anyone in our office in the form of a message.

As also stated in my letter of August 26th, I mailed you a copy of "Authority To Transact Business" from the State of Florida which was approved in May of 1996. It doesn't seem quite normal that I would gather all the required information and forms to do business in the State of Florida and receive certification from the State but not from the PSC and then not try to contact someone for a status report.

These phones were owned/operated by Equity during the time when we did not have a certification number, but with the full intent of selling this equipment to Brooks Webb and Tom Marshall of 5 Sons International, Inc. 5 Sons ordered the lines on behalf of Equity with CenTel of Florida and Sprint. Those lines were to be turned over to 5 Sons once the sale commenced. During the meantime, all phone bills were mailed to Equity by 5 Sons for payment since we were still collecting coins from these pay telephones. Obviously, no deal had been negotiated.

Our only intent was to service the J.H. Harvey account we had contracted with, the majority of the phones within the state of Georgia. There are and were only (3) three locations, 2 in Tallahassee and 1 in Havana. In order to keep our account satisfied, we installed the (6) six phones on lines which had already been "hot" for a week or two.

J.H. Harvey was not aware of the fact that we were looking for a buyer for the Florida locations. This was due in part to the fact that we were not certified and did not have any other accounts within the State of Florida. J.H. Harvey was to be notified at such time when a buyer was secured.

Enclosed is a History Summary Report on all phones from the date of installation thru August 31, 1996 (this is the last full month of reporting available). We would like to make an "Offer Of Settlement" as closure to this matter. Our net income from the phones located in Florida come to \$2,403.83. As you can see, Two (2) phones are still in a negative cash flow status. We would be willing, and if the Commission would accept, for our forfeiture of all and any of this income to avoid further actions against Equity Pay Telephone Co., Inc., by the Florida Public Service Commission.

Please keep in mind that this total of \$2,403.83 does not include any outside contractors installation charges, nor our technicians time and/or salary, nor any vehicle expenses incurred.

We feel this "Offer" would be a fair and final settlement in this matter, due to the chain and nature of events.

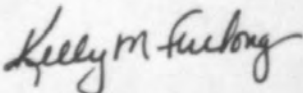
We would also like to re-submit our application from November 10, 1995 and ask that it be processed promptly pending an Order To Cancel Rule To Show Cause against Equity Pay Telephone Co., Inc.

Once again, please understand that once these pay telephones were installed on the property of J.H. Harvey and the deal with Brooks Webb fell thru, we were in a position where we could not remove the phones and could only hope our certification would arrive any day. J.H. Harvey did request additional phones to be installed at the (3) three locations, but we did nothing pending certification. Further, we did not have any intentions of soliciting any other businesses within the State of Florida.

Mr. Moses, I hope you understand that this is not the way Equity operates its' business in any other state. We have been a reputable company since 1985.

Please contact me should you have any questions and/or need clarification on any of the facts. My husband, Robert, and myself are willing to meet with you and/or the Commissioners if you would be so kind as to inform us of a specific date. We would also like to know approximately when the Commission will review this matter, as it is very important to us.

Sincerely,



Kelly M. Furlong

Vice-President

*P.S. Delay was due to time in researching the Check from last year - will send copy when found.*