

FLORIDA PUBLIC SERVICE COMMISSION
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MEMORANDUM

MAY 7, 1997

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

FROM: DIVISION OF COMMUNICATIONS (HAWKINS) *BSSH*
DIVISION OF LEGAL SERVICES (COX) *W/C NCB*

RE: DOCKET NO. 970334-TC - GATEWAY TECHNOLOGIES, INC. -
PETITION FOR EXEMPTION FROM RULES AND ORDERS WHICH
PROHIBIT CONCENTRATION OF LINES SERVICES FOR CALLS MADE
FROM STORE-AND-FORWARD PAY TELEPHONES LOCATED IN
CONFINEMENT INSTITUTIONS BY GATEWAY TECHNOLOGIES, INC.

AGENDA: 05/19/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CHU\WP\970334.RCM

CASE BACKGROUND

Gateway Technologies, Inc. (Gateway) holds pay telephone Certificate No. 5102, with an effective regulation date of March 18, 1997. Presently, Gateway does not provide service within the State of Florida.

On March 18, 1997, Gateway filed a waiver petition of those rules and policies currently prohibiting Gateway from installing concentrators to allow up to three instruments per access line for its payphones located in confinement facilities. The Notice of Petition for Waiver was submitted to the Secretary of State for publication in the Florida Administrative Weekly April 2, 1997. No comments were submitted during the comment period, which ended April 25, 1997. The statutory deadline for the Commission's decision regarding this petition is June 16, 1997. The petition is more properly a petition for exemption authorized by Rule 25-24.505(3), Florida Administrative Code.

DOCUMENT NUMBER-DATE

04531 MAY-75

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By Order No. 14529, issued July 1, 1985, the Commission 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.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Gateway's petition for an exemption from the provisions of Rule 25-24.515(9), Florida Administrative Code, and Order 14529 which prohibit Gateway from installing up to three pay telephone instruments per access line in confinement facilities?

RECOMMENDATION: Yes, the exemption should be granted for Gateways's pay telephones located in confinement facilities only and provided there is a concentration of no more than three pay telephone instruments per access line, or the equivalent thereof on T-1 facilities.

STAFF ANALYSIS: The policy of a one to one ratio of payphone instruments to access lines was established in Order No. 14529, issued July 1, 1985, which states:

We find that it is also in the public interest that we require one PATS instrument per coin access line. We reach this conclusion in the effort to avoid a payphone customer getting a busy signal when he attempts to use the payphone when an emergency arises. The probability of getting a busy signal increases when a line is shared by several PATS instruments.

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LEC tariffs contain language requiring pay telephone providers to order a separate public telephone access line for each telephone instrument installed. In addition, Rule 25-24.515(9), Florida Administrative Code, states, "each telephone station must be connected as provided in the pay telephone access tariff offered by the local exchange company."

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 these reasons, the concern with inmates getting a busy signal when they try to reach emergency services is moot.

The Commission has already granted similar waivers to ATN, Inc., North American InTeleCom, Inc., BellSouth Telecommunications and MCI Telecommunications Corporation to provide up to three to one line concentration within inmate facilities.

Staff believes 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 Gateway will be responsive to the facility as failure to do so might jeopardize its contract for pay telephone service.

Staff recommends that Gateway's petition be granted. Staff believes that the purpose of Chapter 364.01 and 364.3375 would be served in granting this waiver request, as adequate pay telephone service will be maintained. Further, enforcement of the requirement would violate principles of fairness as the requirement is no longer necessary.

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. A protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent Gateway from using a concentration

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of no more than three pay telephone instruments per access line in a non-protesting LEC's territory.

STAFF ANALYSIS: 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.