

MEMORANDUM

October 12, 1998

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REC'D AND  
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (COX) *WPC mcb*

RE: DOCKET NO. 980603-TC - Petition for exemption from rules and orders which prohibit concentration of line services for calls made from store-and-forward pay telephones located in confinement institutions, by Telequip Labs, Inc.

REC-98-1391-FOF-TC

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING EXEMPTION PETITION to be issued in the above-referenced docket.  
(Number of pages in order - )

WPC/slh  
Attachment  
cc: Division of Communications  
I:980603or.wpc

*See 4*

*faxed - 1/2  
mailed - 1/2*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for exemption from rules and orders which prohibit concentration of line services for calls made from store-and-forward pay telephones located in confinement institutions, by Telequip Labs, Inc.

DOCKET NO. 980603-TC  
ORDER NO. PSC-98-1391-FOF-TC  
ISSUED: October 15, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JOE GARCIA  
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING EXEMPTION PETITION

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. BACKGROUND

We granted Telequip Labs, Inc. (Telequip) pay telephone certificate No. 5869, with an effective date of July 14, 1998. Telequip is a newly-certificated company and plans to install pay telephones through Requests for Proposals (RFPs) for various city, county and state agencies to serve inmate population needs.

On April 30, 1998, Telequip filed a Petition for a waiver of those rules and policies currently prohibiting it from providing 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement facilities in separate Docket No. 980602-TC. Additionally, on April 30, 1998, Telequip filed this Petition for

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FLORIDA PUBLIC SERVICE COMMISSION

Exemption from those rules and policies currently prohibiting the company from installing concentrators to allow up to three instruments per access line for its pay phones located in confinement facilities. See Rule 25-24.505(3), Florida Administrative Code. The petition for exemption was submitted to the Secretary of State for publication in the Florida Administrative Weekly, pursuant to Section 120.54, Florida Statutes. No comments were submitted during the comment period, which ended June 5, 1998.

On August 25, 1998, Telequip filed an amendment to its petition. In this amendment, the petitioner supplemented the petition to address Section 120.542, Florida Statutes, and waived the 90-day statutory deadline for our decision on the petition. Set forth below is our decision on Telequip's petition.

## II. DISCUSSION

### Past Commission Policy

We established the policy of a one to one ratio of pay phone instruments to access lines 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 pay phone customer getting a busy signal when he attempts to use the pay phone when an emergency arises. The probability of getting a busy signal increases when a line is shared by several PATS instruments.

Local exchange company (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, however, have their own emergency response systems in place, and Rule 25-24.515(15), Florida Administrative Code, exempts pay phones 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.

Telequip's Waiver Request

We can grant a waiver of or exemption from one of our rules pursuant to Section 120.542(2), Florida Statutes. This statutory provision states:

(2) Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

As a part of our analysis under this statute, the key points in Telequip's petition are summarized as follows. Telequip installs sophisticated premises equipment that permits inmates to make outgoing collect-only calls without assistance of a live operator. These services are connected to a centralized call processing unit with store-and-forward capability. Telequip will provide a number of controls and restrictions that reduce or eliminate fraudulent use of telephone services. These restrictions also equip the institution with increased control over the use of telecommunications by the inmates. Telequip intends to install call processing systems with fewer access lines than instruments. Line concentration allows a greater number of instruments which would not normally warrant dedicated access lines. This assists institution management on inmate access to telecommunications services. Telequip will design line and engineer its systems so that the number of access installed is sufficient enough to support inmate call traffic at the busiest hours. Telequip agrees to use no more than three telephone instruments per LEC access line in each institution served.

III. CONCLUSION

The approval of Telequip's petition is consistent with the legislative mandates to avoid unnecessary regulatory constraints and to eliminate rules that delay or impair the transition to competition. See Sections 364.01(4)(e) and 364.01(4)(f), Florida Statutes. We believe that a three to one ratio of pay phones to access lines 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 Telequip would be responsive to the facility as failure to do so might jeopardize its contract for pay telephone service.

Pay phones in confinement facilities are exempt from the 911 access rule. Considering that difference from normal public requirements, and through its petition, Telequip has demonstrated that allowing it to install concentrators from confinement facilities will relieve any substantial hardships it may incur. Further, Telequip is capable of providing line concentration immediately as the technology is already in place within the pay telephone. Upon consideration, we hereby grant Telequip's petition to handle line concentration calls from confinement facilities as it has met the requirements of Section 120.542 (2), Florida Statutes.


Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Telequip Labs, Inc.'s Petition for Waiver of those rules and policies currently prohibiting the company from installing concentrators to allow up to three instruments per access line for its pay phones located in confinement facilities is 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 28-106.201, 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 in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 15th day of October, 1998.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

WPC

ORDER NO. PSC-98-1391-FOF-TC  
DOCKET NO. 980603-TC  
PAGE 5

**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. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, 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 November 5, 1998.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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.