

MESSER CAPARELLO & SELF, P.A.

Attorneys At Law

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October 18, 2006

**BY ELECTRONIC FILING**

Ms. Blanca Bayó, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

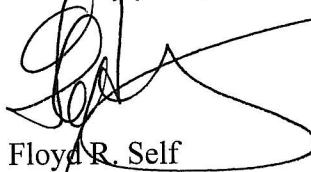
Re: Docket No. 060614-TC

Dear Ms. Bayó:

Enclosed for filing on behalf of TCG Public Communications, Inc. ("TCG") is an electronic version of TCG Public Communications, Inc.'s Motion to Quash, or in the Alternative, to Limit, to Require a Copy, and to Issue a Temporary Protective Order For the Staff Subpoena to Evercom Systems, Inc. in the above referenced docket.

Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

FRS/amb  
Enclosures  
cc: Parties of Record

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Compliance investigation of TCG Public )  
Communications, Inc. for apparent violation of )  
Section 364.183(1), F.S., Access to Company )  
Records, and determination of amount and )  
Appropriate method for refunding overcharges )  
For collect calls made from inmate pay telephones. )  
\_\_\_\_\_ )

Docket No. 060614-TC  
Filed: October 18, 2006

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**TCG PUBLIC COMMUNICATIONS, INC.'S MOTION TO QUASH,  
OR IN THE ALTERNATIVE, TO LIMIT,  
TO REQUIRE A COPY, AND TO ISSUE A TEMPORARY PROTECTIVE ORDER  
FOR THE STAFF SUBPOENA TO EVERCOM SYSTEMS, INC.**

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TCG Public Communications, Inc. ("TCG"), by and through its undersigned counsel, and pursuant to Florida Administrative Code Rule 28-106.204, hereby moves the Florida Public Service Commission ("Commission" or "FPSC") to quash in part, or in the alternative to otherwise limit, the subpoena served by the Commission Staff on or about September 22, 2006 ("Subpoena"), on Evercom Systems, Inc. d/b/a Correctional Billing Services c/o Curtis Hoppfinger ("Evercom"), to require Evercom provide TCG with a copy of any response to the Subpoena, and to issue a temporary protective order to treat any information provided to TCG or filed with the Commission in response to the Subpoena as proprietary confidential business information pursuant to Florida Administrative Code Rule 25-24.006, and Florida Statutes Section 364.183, until such time as TCG can review and file the appropriate confidential claim or request. In support of this Motion, TCG states:

1. On September 13, 2006, the Commission's Competitive Markets and Enforcement Staff sent a "Request to Establish Docket" to the Commission Clerk. In the space for the suggested Docket Title, Staff proposed "Compliance investigation of TCG Public

Communications, Inc. for apparent violation of Section 364.183(1), F.S., Access to Company Records, and determination of amount and appropriate method for refunding overcharges for collect calls made from inmate pay telephones.” The Commission Clerk subsequently assigned this Request Docket No. 060614-TC and titled the docket as proposed by the Staff.

2. The regulated company that is the subject of the investigation is TCG Public Communications, Inc. (“TCG”).

3. Based upon numerous discussions with Commission Staff before and after the opening of the docket, the subject matter of this proceeding is pay telephone service provided to inmates at the Miami-Dade County Correctional Department facilities pursuant to a contract between TCG and Miami-Dade County and customer complaints associated with such service for the time period of approximately September 2003 through September 2005.

4. TCG and Evercom Systems, Inc. d/b/a Correctional Billing Services (“Evercom”) have a separate contractual relationship by which Evercom is a subcontractor to TCG for the Miami-Dade County contract.

5. On or about September 22, 2006, the Commission Staff issued a Subpoena Duces Tecum Without Deposition on Evercom Systems, Inc. d/b/a Correctional Billing Services c/o Curtis Hoppfinger (“Subpoena”). A copy of the Subpoena is attached hereto as Exhibit “A.”

6. Because of the business relationship between TCG and Evercom Systems, Inc. d/b/a Correctional Billing Services (“Evercom”), the data that may be responsive to the Subpoena is in whole or in part TCG’s data.

7. Based upon TCG’s review of the subpoena, GTL believes that some of the data being requested is beyond the scope of the jurisdiction of the FPSC and beyond the scope and purpose of Docket No. 060614. Basically, the Subpoena seeks the production of materials for

facilities outside of Miami-Dade County and could be construed to seek data for Interstate calls and operations.

8. Accordingly, TCG is requesting that in responding to the Subpoena that Evercom be directed to limit its responses as follows:

Subpoena Request No. 1. Any response should be limited to only the pay telephone systems for the Miami-Dade County Correctional Department facilities.

Subpoena Request No. 2. Any response should be limited to only the pay telephone systems for the Miami-Dade County Correctional Department facilities.

Subpoena Request No. 3. Any response should be limited to only the pay telephone systems for the Miami-Dade County Correctional Department facilities.

Subpoena Request No. 4. Any response should be limited to only the pay telephone systems for the Miami-Dade County Correctional Department facilities. In addition, any information should be limited to only Local and Intrastate calls; the response should exclude Interstate calls.

9. In addition, TCG believes that the data requested by this subpoena is proprietary confidential business information pursuant Florida Administrative Code Rule 25-24.006, and Florida Statutes Section 364.183. TCG requests that the FPSC issue a order directing Evercom to produce to TCG a copy of any response it may make to the Subpoena so that TCG can review it to determine what is or is not confidential so that TCG can make the appropriate filing with this Commission. TCG is further requesting that any information provided by Evercom, or any affiliated entity, be treated by the FPSC as confidential and that FPSC issue a temporary protective order to protect this information until TCG is able to obtain a copy of the materials and file the appropriate claim or request for confidentiality.

WHEREFORE, TCG requests that the FPSC issue an order as follows:

- (a) Quashing the Subpoena in part or otherwise limiting it to just materials that relate to the Miami-Dade County Correctional facilities;
- (b) Directing Evercom to produce to TCG a copy of any materials it may produce to the Commission pursuant to the Subpoena so that TCG can review the data; and
- (c) Issuing a temporary protective order to keep as confidential and proprietary any documents produced by Evercom to the Commission until such time as TCG can obtain, review, and file the necessary claim or request for confidentiality.

Respectfully submitted this 18<sup>th</sup> day of October, 2006.

By:



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Counsel for TCG Public Communications, Inc.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**IN RE: Docket 060614-TC - Compliance** )  
investigation of TCG Public Communications, Inc. )  
for apparent violation of Section 364.183(1), F.S., )  
Access to Company Records, and determination )  
of amount and appropriate method for refunding )  
overcharges for collect calls made from inmate )  
pay telephones. )

**SUBPOENA DUCES TECUM  
WITHOUT DEPOSITION**

**THE STATE OF FLORIDA**

TO Evercom Systems, Inc. d/b/a Correctional Billing Services c/o Curtis Hopfinger, 14651 Dallas Parkway, Dallas, TX 75254-7476.

**YOU ARE COMMANDED** to appear at the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399, within 30 days from issuance of this subpoena, or at such other time and place as may be mutually agreed upon by counsel, and to have with you at that time and place the following:

All documents set forth in the attachment.

These items will be inspected and may be copied at that time. You will not be required to surrender the original items. You may comply with this subpoena by providing legible copies of the items to be produced to the attorney whose name appears on this subpoena on or before the scheduled date of production. You may mail or deliver the copies to the attorney whose name appears on this subpoena and thereby eliminate your appearance at the time and place specified above. You have the right to object to the production pursuant to this subpoena at any time before production by giving written notice to the attorney whose name appears on this subpoena. **THIS WILL NOT BE A DEPOSITION. NO TESTIMONY WILL BE TAKEN.**

**YOU ARE SUBPOENAED** by the following attorney to (1) appear as specified, or (2) furnish the records instead of appearing as provided above, and, unless excused from this subpoena by this attorney or the Commission, you shall respond to this subpoena as directed.

**DATED** on September 22, 2006.

Blanca S. Bayó, Director  
Division of the Commission Clerk and  
Administrative Services  
Florida Public Service Commission

(SEAL)

By: Kay Flynn  
Kay Flynn, Chief, Bureau of Records

Lee Eng Tan  
2540 Shumard Oak Boulevard, Tallahassee,  
Florida 32399-0850  
Attorney for Florida Public Service  
Commission

Please provide us with the following information for the time period January 1999 and ending August 31, 2006.

1. Any and all requests and correspondence regarding telephone equipment sensitivity settings for the correctional facilities served by TCG in the state of Florida.

2. Any records of modifications and changes to sensitivity levels for the telephone equipment for the correctional facilities served by TCG in the state of Florida.

3. Complete copies of any and all contracts between TCG and Evercom d/b/a Correctional Billing Services governing work performed for TCG by Evercom d/b/a Correctional Billing Services.

4. Please provide the information below for calls that terminated and another call was completed to the same telephone number within 10 minutes for correctional facilities, identified by month and location, served by TCG in the state of Florida.

(a) LOCAL - Number of calls

(b) Intrastate - Number of calls and minutes

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by electronic mail (\*) and/or U.S. Mail this 18<sup>th</sup> day of October, 2006.

Lee Eng Tan \*  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
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[kscott@psc.state.fl.us](mailto:kscott@psc.state.fl.us)

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Floyd R. Self