

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for exemption ) DOCKET NO. 961363-TC  
from Rule 25-24.515(9), F.A.C., ) ORDER NO. PSC-97-0231-FOF-TC  
and Order No. 14529, to allow ) ISSUED: February 26, 1997  
installation of up to three pay )  
telephone instruments per access )  
line in confinement facilities )  
by North American InTelecom, )  
Inc. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING PETITION FOR WAIVERS OF RULES AND ORDERS

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

North American InTeleCom, Inc. (North American) holds pay telephone Certificate No. 2459, with an effective regulation date of March 21, 1990. North American operates pay telephones in various confinement facilities throughout Florida.

On November 15, 1996, North American filed a petition for waiver from the provisions of Rule 25-24.515(9), Florida Administrative Code, and Order 14529 to permit North American to install concentrators allowing up to three instruments per access line for its payphones located in confinement facilities. The

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petition is more properly a petition for exemption authorized by Rule 25-24.505(3), Florida Administrative Code.

The Notice of the Waiver Petition was sent to the Secretary of State for publication in the Florida Administrative Weekly on November 30, 1996. The comment period for this petition ended January 26, 1997, and no comments were filed. The statutory deadline for our decision on this petition was February 13, 1997. We voted to grant the petition at the February 4, 1997, Agenda Conference within the statutory deadline.

## II. HISTORY OF THE POLICY

By Order No. 14529, issued July 1, 1985, we required that only one pay telephone instrument be installed per pay telephone service (PATS) 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.

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.

In Order No. PSC-96-1157-FOF-TC, issued September 17, 1996, we granted a waiver permitting ATN, Inc. to provide up to three to one line concentration within inmate facilities.

## III. CONCLUSION

We find that a three to one ratio of payphones 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 North American will be responsive to the facility as failure to do so might jeopardize its contract for pay telephone service.

Upon consideration, we grant North American InTeleCom, Inc.'s petition for an exemption from Rule 25-24.515(9), Florida Administrative Code, and Order No. 14529 for its pay telephones

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located in confinement facilities only and provided there is a concentration of no more than three pay telephone instruments per access line.

Further, 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.

Some of our recent decisions to exempt payphone providers serving confinement facilities from certain rules and policies have resulted in protests being filed by two rate of return regulated LECs. We find that North American should not be prohibited from using a concentration of no more than three pay telephone instruments per access line in a LEC's territory if that LEC does not protest our action. Accordingly, a protest filed by a LEC shall be applicable only to that LEC's territory and shall not prevent North American from using a concentration of no more than three pay telephone instruments per access line in a non-protesting LEC's territory.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that North American InTeleCom, Inc.'s petition for an exemption from the provisions of Rule 25-24.515(9), Florida Administrative Code, and Order No. 14529 for pay telephones located in confinement facilities only and provided there is a concentration of no more than three pay telephone instruments per access line. It is further

ORDERED that this docket shall be closed unless a person whose substantial interests are affected by our decision files a protest within 21 days of the Proposed Agency Action. 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 North American InTeleCom, Inc. from using a concentration of no more than three pay telephone instruments per access line in a non-protesting local exchange company's territory.

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By ORDER of the Florida Public Service Commission, this 26th  
day of February, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( 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.

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 March 19, 1997.

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.