

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 Gateway  
Technologies, Inc.

DOCKET NO. 970334-TC  
ORDER NO. PSC-97-0663-FOF-TC  
ISSUED: June 10, 1997

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 WAIVER

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.

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 Petition for a waiver of  
those rules and policies currently prohibiting Gateway from  
installing concentrators to allow up to three instruments per  
access line, or the equivalent thereof on T-1 facilities, for its

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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, pursuant to Section 120.542, Florida Statutes. No comments were submitted during the comment period, which ended April 25, 1997.

By Order No. 14529, issued July 1, 1985, we 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

There appears to be no reason for continuing the one pay telephone per access line requirement indicated above. The concern underlying this requirement is sufficient access to 911 services. 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.

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

We believe 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.

#### CONCLUSION

Gateway has demonstrated that the purpose of Chapter 364.01 and 364.3375, Florida Statutes, would be served in granting this waiver request, as Gateway will maintain adequate pay telephone

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service. Further, enforcement of the requirement would violate principles of fairness. This requirement is no longer necessary and appears unduly burdensome in light of the new competitive environment. Upon consideration, we hereby grant Gateway's waiver Petition.

This docket shall be closed unless a person whose substantial interests are affected by our decision files a protest within 21 days of the issuance of this Proposed Agency Action Order. A protest filed by a LEC shall be applicable only to that LEC's territory and shall not prevent Gateway from using a concentration of no more than three pay telephone instruments per access line, or the equivalent thereof on T-1 facilities, in a non-protesting LEC's territory.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gateway Technologies, Inc.'s Petition for Exemption from rules and orders which prohibit Gateway from installing concentrators to allow up to three instruments per access line, or the equivalent thereof on T-1 facilities, is hereby granted. It is further

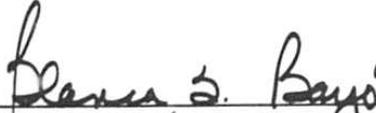
ORDERED that the provisions of this Order, issued as Proposed Agency Action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, 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 any protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent Gateway Technologies, Inc. from using a concentration of no more than three pay telephone instruments per access line, or the equivalent thereof on T-1 facilities, in a non-protesting LEC's territory. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 10th  
day of June, 1997.



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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( 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.

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 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 July 1, 1997.

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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.