

available upon request under the Freedom of Information Act. However, EPA's experience with the previous two surveys indicate that these data are rarely, if ever, requested. The data from the questionnaires will provide EPA with a basis for estimating the nationwide infrastructure needs of community water systems. Also, as mandated by Section 1452(a)(1)(D)(ii) of the Safe Drinking Water Act, EPA uses the results of the latest survey to allocate Drinking Water State Revolving Fund (DWSRF) monies to the States. Under the allotment formula, each State receives a grant of the annual DWSRF appropriation in proportion to its share of the total national need—with the proviso that each State receive at least 1% of the total funds available.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Burden Statement:** It is estimated that this information collection will involve a total cost burden to the respondents of \$1,229,764 and a total hour burden to the respondents of 45,057 hours. There will be no capital, start-up or operation and maintenance costs but the collection will involve a one time response, from 3,790 respondents, of approximately 11.8 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install,

and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: July 10, 2002.

**Cynthia Dougherty,**

*Director, Office of Ground Water and Drinking Water.*

[FR Doc. 02-17877 Filed 7-15-02; 8:45 am]

**BILLING CODE 6560-50-P**

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## FEDERAL COMMUNICATIONS COMMISSION

[EB Docket No. 02-149; FCC 02-173]

### In the Matter of Publix Network Corporations; Customer Attendants, LLC; Revenue Controls Corporations; SignTel, Inc.; and Focus Group, LLC (Publix Companies) Order To Show Cause and Notice of Opportunity for Hearing

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice; Order to show cause and opportunity for hearing.

**SUMMARY:** This document is an order for Publix Companies to show cause and give the Publix Companies the opportunity for a hearing before the Commission. The Commission has found that an evidentiary hearing is required to determine whether the Commission should revoke the operating authority of the Publix Companies, the Publix Companies and the principal or principals of the Publix Companies should be ordered to cease and desist from any future provision of interstate common carrier services without the prior consent of the Commission, the Publix Companies are entitled to any of the telecommunications relay services ("TRS") fund monies that they requested or received from the TRS Fund, and a forfeiture against any or all of the Publix Companies is warranted and, if so, the amount of the forfeiture.

**DATES:** Effective July 16, 2002.

**FOR FURTHER INFORMATION CONTACT:** David Hunt, Attorney Advisor for Telecommunications Consumers Division, Enforcement Bureau (202) 418-1522.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's document regarding EB Docket No. 02-149, released on June 19, 2002. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., CY-A257, Washington, DC, 20554, and also may be purchased from the Commission's copy contractor, Qualex International, 445 12th SW., CY-B402, Washington, DC, 20554, (202) 863-2893. It is also available on the Commission's website at [http://www.fcc.gov/Daily\\_Releases/Daily\\_Business/2002/db0619/FCC-02-173A1.pdf](http://www.fcc.gov/Daily_Releases/Daily_Business/2002/db0619/FCC-02-173A1.pdf).

## Synopsis

### A. Background

1. Telecommunications relay services were created to bring to those with a hearing or speech disability the benefits of telecommunications service that had hitherto been unavailable to that segment of the public by "provid[ing] the ability for an individual with a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability to communicate using voice communication services by wire or radio.

2. The Act requires each common carrier providing voice transmission services to provide TRS in accordance with the standards set forth in Section 64.604 of the Commission's rules. Carriers may do this either by providing TRS directly, or by contracting with a TRS provider. Section 64.604 of the Commission's rules established the TRS Fund, currently administered by the National Exchange Carrier Association ("NECA"), which reimburses TRS providers for the costs of providing interstate TRS. Carriers providing interstate telecommunications services must contribute to the TRS Fund on the basis of interstate end-user telecommunications revenues.

3. Payments from the TRS Fund to TRS providers are based on schedules of payment formulae that NECA files annually with the Commission. These formulae are based on total monthly interstate TRS minutes of use ("MOU"), defined as the MOU for completed interstate TRS calls placed through a TRS center beginning after call set-up and concluding after the last message call unit. TRS providers are eligible to receive payments from the TRS Fund only if they are: (1) TRS facilities operated under contract with and/or by

certified state TRS programs pursuant to § 64.605; (2) TRS facilities owned by or operated under contract with a common carrier providing interstate services pursuant to § 64.604; or (3) interstate common carriers offering TRS pursuant to § 64.604. To be entitled to payments from the TRS fund, TRS providers must submit monthly reports of interstate MOU to NECA.

4. As required by the Act, the Commission has established mandatory minimum standards for all TRS providers. Congress mandated certain of these standards, such as the requirement to operate seven days a week, 24 hours per day pursuant to § 64.604(b)(4) and the prohibition on keeping records of or disclosing the content of TRS calls pursuant to § 64.604(a)(2). The Commission's implementing rules also cover matters such as training, typing speed, and communication competence for the communication assistants. Besides employee qualifications, TRS hardware and access requirements are outlined, as well as reporting functions, payments, contribution computation, and complaint procedures.

5. The Publix Companies have, since 1999, been collecting reimbursements from the TRS Fund for purportedly providing TRS service eligible for compensation under the Commission's rules. The Publix Companies began operating what they described as a TRS center in January 1999 and began submitting MOU reports to NECA in February of that year. From that period until April 2001, the Publix Companies submitted 8,014,815 MOU to NECA as a basis for payment from the TRS Fund. The last billing statement they sent to NECA for compensation from the TRS Fund was dated August 13, 2001, and covered purported TRS MOU for July 2001. The Publix Companies have received reimbursements in excess of \$6 million.

6. A random audit of the Publix Companies' TRS operations by NECA in 2001 raised significant questions of whether their relay operations entitled them for the TRS Fund payments that they had requested and received. On June 25, 2001, the Enforcement Bureau ("EB") issued a subpoena for documents to Publix Network ("EB Subpoena"), together with a letter of inquiry. The Publix Companies responded to both EB and the Common Carrier Bureau (CCB) on July 23, 2001. In its response to CCB, Publix Network stated that once it was given notice of CCB's concerns, it had "worked diligently to adjust its operations." Publix Network further stated that its management believed that Publix Network had always been

operating "in substantial compliance with the TRS minimum standards."

7. Based on the NECA audit and on the responses received from the Publix Companies to the Commission's inquiries, it appears that the Publix Companies have collected millions of dollars in payments from the TRS Fund without actually having provided TRS services that would have qualified them for reimbursement. It appears that the Publix Companies did not actually provide TRS as defined by the Commission's rules, thus raising a threshold issue about their eligibility for compensation from the TRS Fund. Moreover, there appears to be pervasive misconduct and violations of Commission rules by the Publix Companies. It appears that the Publix Companies violated numerous operational, technical, and functional requirements set forth in the Commission's TRS rules, submitted inflated bills for reimbursement and other false and inadequate data to the TRS Fund Administrator, and made repeated misrepresentations to the Commission. Considered in their totality, it appears that the actions of Publix Network and related companies may have constituted not only multiple, technical violations of the Act and the Commission's rules, but also a deliberate scheme to obtain TRS Fund payments for which these companies were not eligible. In view of the apparent pattern of pervasive misconduct and violations, it appears that the Publix Companies are not qualified, and should not be authorized, to operate as common carriers in the future.

#### *B. Discussion*

8. The Publix Companies are eligible to receive payments from the TRS Fund, if at all, only to the extent that they are an interstate common carrier "offering TRS pursuant to Section 64.604." It appears that the services for which the Publix Companies have sought TRS Fund reimbursement fundamentally do not constitute TRS at all. Moreover, to the extent that any TRS was actually provided by the Publix Companies, it appears that it was not "TRS pursuant to § 64.604," because the Publix Companies did not substantially comply with the requirements of that rule.

9. The Commission's definition of TRS requires communication between an individual with a hearing or speech disability and an individual without any such disability. It appears that almost all of the purported calls for which the Publix Companies have sought reimbursement occurred solely between employees of the Publix Companies,

and that the CAs did not function as transliterators, but initiated and directed the calls to other employees of the Publix Companies. Thus, these calls were, in effect, calls solely between persons with hearing or speech disabilities.

10. It appears that the calls Publix Companies reported to NECA did not involve calls between persons with hearing or speech disabilities and those without such disabilities. The calls appear to have followed two patterns. In the first, Publix Companies' CAs would place a call to several assistant developers ("ADs") who were in the employ of Dr. Raanan Liebermann, President of the Publix Network Corporation, through Focus Group, and would ask the ADs several questions as per a prepared "script." These scripted conversations would last four to eight hours a day, five days a week. The ADs, however, were, according to the Publix Companies, all persons with hearing or speech disabilities, and thus required no TRS to communicate among themselves. It appears that the CAs functioned as participants, initiators of these calls. However, payments are only available for interstate TRS calls that are placed by TRS users. In the second pattern, it appears that a moderator was involved in the conference calls along with the CAs and ADs. These moderators were employees of Dr. Liebermann through another of the Publix Companies, SignTel. Apparently, the moderator would call as many as six CAs of the Publix Companies, who in turn would usually contact as many as five ADs each. When a moderator was involved in the call, it appears that he or she would read out the questions per the script, and the CAs would type out via TTY the questions for the ADs. When the ADs responded, however, it appears that the responses were not always forwarded to the moderators. Thus, it appears that the moderator may have served only to create the appearance of actual relay service. Calls such as these do not constitute TRS because they do not facilitate communications between persons with hearing or speech disabilities and persons without such disabilities.

11. The Administrative Law Judge is directed to determine whether the service for which the Publix Companies requested and received payments met the definition of TRS in the Act and the Commission's rules; whether the Publix Companies offered TRS pursuant to Section 64.604, including but not limited to whether they met the operational, technical and functional standards, and met the training, confidentiality, and equal access to

interexchange carriers required of TRS facilities; whether the Publix Companies violated Commission rules by providing inaccurate information (costs and minutes of use) to the TRS Fund Administrator; whether the Publix Companies made intentional misrepresentations or willful material omissions to the Commission; whether the Publix Companies should remain authorized to act as a common carrier; whether the Publix Companies are entitled to any portion of the payments from the TRS Fund that they requested or received; and whether piercing the corporate veil is appropriate to find the affiliated entities equally liable in this alleged scheme.

### C. Conclusion

12. In light of the totality of the information now before us, an evidentiary hearing is required to determine whether the continued operation of the Publix Companies as a common carrier would serve the public convenience and necessity within the meaning of Section 214 of the Act. Further, due to the potentially egregious nature of the Publix Companies' apparently unlawful activities, they will be required to show cause why an order to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission should not be issued. In light of the apparent violations outlined above, it also appears that a forfeiture should be levied against the Publix Companies. Moreover, because our investigation has raised substantial questions whether the Publix Companies are entitled to any of the payments that they have received and requested from the TRS Fund, we will specify an issue to determine the extent to which the Publix Companies are eligible for any payments.

### Ordering Clauses

13. Pursuant to Sections 4(i) and 214 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 214, the principal or principals of the Publix Companies *are directed to show cause* why the operating authority bestowed on the Publix Companies pursuant to Section 214 of the Communications Act of 1934, as amended, should not be *revoked*.

14. Pursuant to Section 312(b) of the Communications Act of 1934, as amended, 47 U.S.C. 312(b), the principal or principals of the Publix Companies *are directed to show cause* why an order directing them *to cease and desist from the provision of any interstate common carrier services*

without the prior consent of the Commission should not be issued.

15. The hearing shall be held at a time and location to be specified by the Chief Administrative Law Judge in a subsequent order. The ALJ shall apply the conclusions of law set forth in this Order to the findings that he makes in that hearing, upon the following issues:

(a) To determine whether the service the Publix Companies provided met the definition of TRS under § 225(a)(3) of the Act and § 64.601(7) of the Commission's rules;

(b) To determine whether the Publix Companies violated § 64.604(a)(1) of the Commission's rules;

(c) To determine whether the Publix Companies violated Section 225(d)(1)(F) of the Act and § 64.604(a)(2)(i) of the Commission's rules;

(d) To determine whether the Publix Companies violated § 64.604(b)(3) of the Commission's rules;

(e) To determine whether the Publix Companies violated § 64.604(b)(4) of the Commission's rules;

(f) To determine whether the Publix Companies violated § 64.604(c)(3) of the Commission's rules;

(g) To determine whether the Publix Companies violated § 64.604(c)(5)(iii)(C) of the Commission's rules;

(h) To determine whether the Publix Companies violated § 64.604(c)(5)(iii)(E) of the Commission's rules;

(i) To determine whether the MOU generated by the Publix Companies constituted MOU compensable by the TRS Fund;

(j) To determine whether the Publix Companies violated Section 220(e) of the Act by not filing true and accurate data in FCC Form 499-A;

(k) To determine whether the Publix Companies engaged in a pervasive pattern of misrepresentation or lack of candor;

(l) To determine whether the Publix Companies misrepresented or willfully omitted facts in written materials submitted to the Commission, in violation of 47 CFR. Section 1.17;

(m) To determine whether, with respect to the issues (a) through (l) specified above, the Publix Companies knew or should have known that they were committing such violations, whether they acted with the intention of violating a known duty; and whether they acted negligently, or with gross neglect of a known duty;

(n) To determine whether the Publix Companies substantially complied with the requirements of 47 CFR 64.604;

(o) To the extent that the ALJ finds that the Publix Companies were eligible for any TRS Fund reimbursements they requested or received, to determine the

number of MOU for which the Publix Companies were entitled to receive reimbursement from the TRS Fund;

(p) To determine, in light of all the foregoing, whether Publix Network's authorization to operate as a common carrier should be revoked;

(q) To determine whether, in light of all the foregoing, Publix Network, the Publix Companies, and/or its principals should be ordered to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission;

(r) To determine whether, in light of the evidence adduced pursuant to the foregoing issues, Publix Network, Publix Relay, SignTel, RCC, Customer Attendants, Focus Group, and any other related company under the control and direction of Dr. Raanan Liebermann, should, for purposes of this proceeding, be considered one and the same entity.

16. The Chief, Enforcement Bureau, shall be a party to the designated hearing. Pursuant to Section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding and the burden of proof shall be upon the Enforcement Bureau as to issues (a) through (r) inclusive.

17. To avail themselves of the opportunity to be heard, the principal or principals of the Publix Companies, pursuant to § 1.91(c) of the Commission's rules, *shall file* with the Commission within 30 days of the mailing of this Show Cause Order a *written appearance* stating that a principal or other legal representative from the Publix Companies will appear at the hearing and present evidence on the matters specified in the Show Cause Order. If the Publix Companies fail to file a written appearance within the time specified, the Publix Companies' right to a hearing *shall be deemed to be waived*. In the event that the right to a hearing is waived, the Presiding Judge, or the Chief, Administrative Law Judge if no Presiding Judge has been designated, *shall terminate* the hearing proceeding as to that entity and *certify* this case to the Commission in the regular course of business, and an appropriate order shall be entered.

18. Irrespective of the resolution of the foregoing issues, the ALJ shall determine, pursuant to Section 503(b)(3)(A) of the Act, 47 U.S.C. 503(b)(3)(A), whether an Order of Forfeiture shall be issued against any or each of the Publix companies and their principal(s) for having willfully and/or repeatedly violated Sections 1.17, 64.601(7), 64.604(a)(1), 64.604(a)(2)(i), 64.604(b)(3), 64.604(b)(4), 64.604(c)(3), 64.604(c)(5)(iii)(C), and/or

64.604(c)(5)(iii)(E) of the Commission's rules, 47 CFR 1.17, 64.601(7), 64.604(a)(1), 64.604(a)(2)(i), 64.604(b)(3), 64.604(b)(4), 64.604(c)(3), 64.604(c)(5)(iii)(C), and/or 64.604(c)(5)(iii)(E) and/or Sections 220(e), 225(a)(3) and 225(d)(1)(F) of the Act, 47 U.S.C. 220(e), 225(a)(3) and 225(d)(1)(F). For each violation, the maximum potential forfeiture liability for the parties, joint and separately, shall be the statutory maximum of \$120,000 per violation up to a total of \$1,200,000 for each continuing violation committed by a common carrier. This figure is set based upon the seriousness of the alleged violations, the continuing nature of the alleged violations, the apparent culpability of each party, the information available to us concerning the financial condition of each party, and the ability of each party to profit from the alleged rule and/or statutory violations.

19. This document constitutes a *notice of opportunity for hearing* pursuant to Section 503(b)(3)(A) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(A), for the potential forfeiture liability outlined above.

20. A copy of this *order to show cause and notice of opportunity for hearing* shall be sent by certified mail, return receipt requested, to Dr. Raanan Liebermann, Publix Network Corporation, 79 Bayard Avenue, North Haven, CT 06473, and Gerard Waldron, Esq., Covington & Burling, 1201 Pennsylvania Avenue, NW., Washington, DC, 20004.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 02-17829 Filed 7-15-02; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

[Report no. 2560]

### Petitions for Reconsideration of Action in Rulemaking Proceedings

July 3, 2002.

Petitions for Reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY-A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863-2893. Oppositions to these petitions must be

filed by July 31, 2002. *See* Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time of filing oppositions has expired.

*Subject:* Communications Assistance for Law Enforcement Act (CC Docket No. 97-213).

*Number of Petitions Filed:* 1.

*Subject:* In the Matter of Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission Systems (ET Docket No. 98-153).

*Number of Petitions Filed:* 16.

*Subject:* Amendment of the FM Table of Allotments (MM Docket No. 01-341, RM-10346).

*Number of Petitions Filed:* 1.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 02-17826 Filed 7-15-02; 8:45 am]

**BILLING CODE 6712-01-M**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### Agency Information Collection Activities: Proposed Collection; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed revised information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the use of the Emergency Management Institute Resident Course Evaluation Form, which is used to identify problems with course materials, evaluate the quality of the course delivery, facilities and instructors. This notice corrects the **Federal Register** notice published June 14, 2002, to provide a 60-day comment period beginning the date of this notice. In addition, FEMA will not be requesting approval of this information collection under the emergency processing procedures in the Office of Management and Budget regulation 5 CFR 1320.13, but will follow the normal clearance procedures.

**SUPPLEMENTARY INFORMATION:** The Emergency Management Institute (EMI) develops courses and administers resident and nonresident training programs in areas such as natural

hazards, technical hazards, instructional methodology, professional development, leadership, exercise design and evaluation, information technology, public information, integrated emergency management, and train-the-trainer. A significant portion of the training is conducted by State emergency management agencies under cooperative agreements with FEMA.

In order to meet current information needs of EMI staff and management, the EMI uses this course evaluation form to identify problems with course materials, delivery, facilities, and instructors. This is a resident evaluation form. EMI staff will use the information to monitor and recommend changes in course materials, student selection criteria, training experience, and classroom environment. Reports will be generated and distributed to EMI management and staff. Without the information it will be difficult to determine the need for improvements and the degree of student satisfaction with each course. The respondents are students attending EMI resident courses. The evaluation form will be administered at the end of the course and will take no more than 10 minutes to complete. Contractors will scan the evaluation forms and generate the data reports using a computer program developed by a FEMA program analyst contractor. Evaluation forms are destroyed in accordance with FEMA's records retention schedule.

### Collection of Information

*Title:* Emergency Management Institute Resident Course Evaluation Form.

*Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*OMB Number:* 3067-0237.

*Form Number(s):* FEMA Form 95-41.

*Abstract:* Students attending the Emergency Management Institute resident program courses at FEMA's National Emergency Training Center will be asked to complete a course evaluation form. EMI staff and management will use the information to identify problems with course materials and evaluate the quality of the course delivery, facilities, and instructors. The data received will enable them to recommend changes in course materials, student selection criteria, training experience and classroom environment.

*Affected Public:* State, Local or Tribal Government, Individuals or households, and Federal Government.

*Estimated Total Annual Burden Hours:* 667.