

Maguire



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Installation of Government Telephones in the Residences of Nuclear Regulatory Commission Officials

File: B-223837

Date: January 23, 1987

### DIGEST

Installation of Government telephones in the residences of certain high Nuclear Regulatory Commission (NRC) officials would be proper, notwithstanding the general prohibition in 31 U.S.C. § 1348(a)(1) (1982) on the use of appropriated funds for the installation of telephones in private residences. GAO has recognized the inapplicability of the prohibition when the telephone service is one of limited use or it is a service involving numerous safeguards and the separate service is essential. Here, NRC reasonably has determined that the telephone service is required to establish immediate communication with high NRC officials in the event of a nuclear accident. The telephones to be installed would be capable of dialing only NRC internal telephone numbers.

### DECISION

This decision is in response to a request from Lando W. Zech, Jr., Chairman of the Nuclear Regulatory Commission (NRC), for a decision regarding the propriety of the installation of Government telephones in the residences of the Chairman, the Executive Assistant to the Chairman, and the Executive Director for Operations of the NRC. For the reasons set forth below, we conclude that installation of the telephones in question in the circumstances described by Chairman Zech would be proper.

Chairman Zech points out that the telephones would be necessary in emergency situations:

"It is crucial that top level Agency officials become involved in the management of nuclear events at the earliest possible moment. This substantially improves our ability to respond

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to U.S. nuclear emergencies and events in foreign countries, such as the accident at Chernobyl. The importance of reliable communications is obvious. These often take place outside of normal business hours.

"I believe it is important to have dedicated telephone lines to ensure early management communication and control of potentially dangerous situations. These lines would help us to take appropriate steps even before situations become so severe as to justify interruption by the operator of a call to home telephones."

Chairman Zech further indicates that the telephones in question would be restricted to dialing only internal NRC telephone numbers. Other calls would have to be placed through the NRC operator.

The use of appropriated funds to install telephones in private residences is prohibited by 31 U.S.C. § 1348(a)(1) (1982):

"Except as provided in this section, appropriations are not available to install telephones in private residences or for tolls or other charges for telephone service from private residences."

This statute is a general prohibition against the use of appropriated funds to pay any part of the expense of furnishing telephone service in a private residence, without regard to the practical desirability of the service. B-218990.2, September 8, 1986, 65 Comp. Gen. \_\_\_\_\_. We have invoked the statutory prohibition even when the employees who would use the telephone service had no office out of which they could work and were required to work out of their homes. B-130288, February 27, 1957. We have held that the prohibition applies even when the volume of Government business effectively precluded an employee's family from using his personal telephone. 59 Comp. Gen. 723 (1980).

Nonetheless, although generally the statute has been strictly applied, there have been instances in which we have determined that the prohibition was not applicable. Exceptions have been recognized in two general circumstances. The first general circumstance is when the telephone is installed in Government-owned quarters serving as a residence and office simultaneously. See, e.g., 53 Comp. Gen. 723 (1973) (installation of telephone in an Army barracks).

The second general circumstance in which we have recognized the inapplicability of the statutory prohibition is when the telephone service is one of limited use or it is a service involving adequate safeguards and the separate service is essential. See, e.g., 32 Comp. Gen. 431 (1953) (installation of a special telephone in the residence of the Pearl Harbor Fire Marshall); B-218990.2, September 8, 1986, 65 Comp. Gen. \_\_\_ (installation of telephone lines in the residences of IRS criminal investigators using portable computers for confidential data transmission).

We conclude that the second exception, installation of essential telephone service of limited use or involving adequate safeguards, is applicable in the instant case. The circumstances of this case are substantially similar to those in B-128144, June 29, 1956, which involved the installation of special telephone lines in the residences of high Department of Defense officials to ensure immediate communication in the event of a national emergency. The operation of that special system was described as follows:

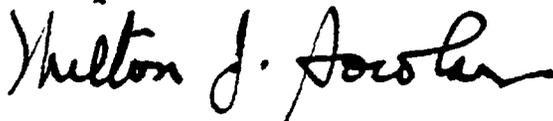
"It is stated that the Command post operator will have direct control of and will establish all connections in the special telephone system. In addition, he will inquire as to the authorization therefor, will log important and unusual connections, and may make recordings of conversations. Also, it is reported the Air Force Chief of Staff will issue a directive that the command post switchboard is not a switching facility; that it is not designed to augment commercial telephone systems; and that the direct lines between the switchboard and the residences and quarters are for use only in a national emergency to conduct such urgent official business.

"The purpose of the system as explained in the Assistant Secretary's letter appears to be that in the event a national emergency occurs during off-duty hours, the direct line telephone system will assure emergency communication to the residences and quarters of key officials regardless of the obstruction that can be anticipated by the overloading of the commercial circuits. In addition, the system will allow immediate telephone conferences for the swift execution of emergency war plans."

We approved the installation of the special telephone system in that case on the grounds that the system was necessary to ensure communication in emergency circumstances, the use of the system was limited by regulation and by external control, and the officials involved would continue to maintain their own private telephone service. See also 32 Comp. Gen. 431 (1953) (installation of a special telephone in the residence of the Pearl Harbor Fire Marshall); 61 Comp. Gen. 213 (1982) (installation of secure telephone service in the residences of high level civilian and military leaders).

The reasoning applied in the above mentioned cases applies to the current situation. Here, NRC reasonably has determined that the ability to establish immediate communication with high NRC officials would be essential in the event of a nuclear accident. The telephones to be installed would be capable of dialing only NRC internal telephone numbers. Any other calls would have to be placed through the NRC operator.

Accordingly, we conclude that installation of the telephones in question in the circumstances described by Chairman Zech, involving limited emergency telephone service with sufficient safeguards to prevent abuse, would be proper.

*for*  


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