

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for waiver of ) DOCKET NO. 951546-TP  
Rule 25-24.515 (7), F.A.C., and ) ORDER NO. PSC-96-0296-FOF-TP  
Rule 25-24.620 (2) (c) and (d) ) ISSUED: February 27, 1996  
F.A.C., regarding 0+ local and )  
0+ intraLATA traffic, by T- )  
Netix, Inc. )  
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The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER DENYING PETITION

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.

T-Netix, Inc. (T-Netix) holds Pay Telephone Certificate No. 3355, Interexchange Carrier Certificate No. 3188, and qualifies as an operator service provider pursuant to Rule 25-24.610(f), Florida Administrative Code. T-Netix provides intrastate interexchange telecommunications services to inmates in certain Florida inmate facilities.

On December 11, 1995, T-Netix filed a Petition for Waiver of Rules 25-24.620(2)(c), (d) and 25-24.515(7), Florida Administrative Code, to allow it to carry and bill 0+ local and 0+ intraLATA calls placed from Florida confinement facilities. The Rules require pay telephone companies and operator service providers to route all intraLATA calls to the local exchange company (LEC) for completion.

For security reasons, pay telephones in confinement facilities generally only allow collect local and long distance calls to be made. Pay telephone providers serving confinement facilities

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generally use store and forward technology. This means the pay telephone instrument contains software which has been programmed to outpulse a collect call on a seven digit or 1+ basis. After the inmate dials the 0+ collect call and states his name, the pay telephone stores the name in memory and utilizing preprogrammed software, outpulses the call on a 1+ basis. An automated operator then announces the call as collect from the inmate, using the prerecorded name and the called party may choose to accept or refuse the call. By processing calls in this manner, the pay telephone company is providing its own operator services via the store and forward technology of a "smart phone."

T-Netix petition asks that we allow it to handle and bill both 0+ local and 0+ intraLATA at its pay telephones located in confinement facilities. In its petition, T-Netix points to the statutory amendments opening local service to competition and the company's capability to handle such traffic as reasons the Commission need no longer reserve such traffic for the LEC. The petition also states that the store and forward technology T-Netix presently uses to handle and bill interLATA calls in confinement facilities will provide the same benefits to the institutions, the company, and the end-user if employed for local and intraLATA calls. These benefits include the elimination of operator abuse by inmates, reduction of fraudulent calling, and possibility of lower rates.

The policy of reserving 0+ local and 0+ intraLATA calls for the LEC has been in effect since pay telephone service first became competitive in Florida in 1985. We have reaffirmed it in Orders Nos. 16343, 20489, 21614, 22243, and 24101. The policy evolved to address the needs of the public and the newly developing pay telephone and operator service companies.

We again considered this policy in Order PSC-95-0203-FOF-TP, issued February 13, 1995. We found that intraLATA presubscription was in the public interest. This meant that interexchange carriers (IXCs) would be allowed to compete with LECs for 0+ intraLATA toll traffic for the first time. 0+ local traffic would still be reserved to the LECs. Large LECs were ordered to implement intraLATA presubscription throughout their service areas by December 31, 1997. Small LECs would be allowed to delay implementation until a bona fide request was received. We denied Motions for Reconsideration filed by GTE Florida Incorporated (GTEFL) and Southern Bell by Order No. PSC-95-0918-FOF-TP, issued July 31, 1995. GTEFL filed a Notice of Appeal and a Motion for Stay of the Commission Order with the Florida Supreme Court. On October 12, 1995, the Court issued a stay of Order PSC-95-0203-FOF-

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TP. Therefore, 0+ intraLATA presubscription cannot implemented at this time.

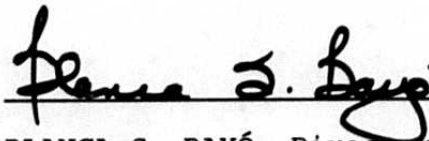
Absent the Supreme Court's stay, we might find T-Netix's arguments persuasive. We voted to allow intraLATA competition in Order No. PSC-95-0203-FOF-TP. Under that Order, IXCs will be allowed to carry traffic currently reserved to the LECs under the time schedule described in that Order. If that Order were in force, NPATS would be allowed to carry such traffic under the same timeframe as IXCs. However, the effect of the stay is to maintain the status quo until the stay is lifted. While we believe the revision to Chapter 364, Florida Statutes might open the intraLATA market to competition, the Court had adequate opportunity to consider the revisions to Chapter 364 when deciding whether to issue the stay and chose to stay our Order. Since the Court has stayed Order No. PSC-95-0203-FOF-TP opening the entire intraLATA market to competition, we cannot avoid the Court's order by opening a portion of the market for NPATS as requested by T-Netix. Accordingly, we deny T-Netix's petition.

It is, therefore,

ORDERED by the Florida Public Service Commission that T-Netix, Inc.'s Petition for Waiver of Rules 25-24.620(2)(c), (d) and 25-24.515(7), Florida Administrative Code, is hereby denied. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this Order shall become final on the following date and this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 27th day of February, 1996.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

LMB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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, 1996.

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.