

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

July 18, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (K. LEWIS) *PL*
DIVISION OF LEGAL SERVICES (BILLMEIER) *MB*

RE: DOCKET NO. 960603-TC - ATN, INC. - PETITION FOR EXEMPTION FROM RULE 25-24.515(7), F.A.C. TO PERMIT PROVISION OF 0+ LOCAL AND 0+ INTRALATA CALLS FROM PAY TELEPHONES LOCATED IN CONFINEMENT FACILITIES.

AGENDA: 07/30/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\CMU\WP\960603.RCM

CASE BACKGROUND

ATN, Inc. (ATN) holds pay telephone certificate no. 3318, with an effective regulation date of May 4, 1993. ATN presently operates approximately 100 pay telephones in various confinement facilities throughout Florida.

ATN currently provides and bills automated 0+ intrastate Florida calls on an interLATA basis via store-and-forward technology, and provides such calls on a local, intraLATA and interLATA basis in each of the other states in which it provides inmate pay telephone service. In Florida, ATN resells sent-paid local and intraLATA calls placed from confinement facilities and provides debit cards for inmates to complete local and intraLATA toll calls. ATN provides pay telephone service at various confinement facilities in the territories of BellSouth, Sprint/United and GTE Florida, Inc.

On May 13, 1996, ATN filed a Petition for a waiver of those rules and policies currently prohibiting it from providing 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement facilities (Attachment A).

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant ATN's Petition for exemption from rule 25-24.515(7), and Rule 25-24.620(2)(c) and (d) Florida Administrative Code, and the policies contained in Orders Nos. 95-0918, 95-0203, and 24101 to permit it to handle and bill 0+ local and 0+ intralata calls from pay telephones located in confinement facilities at no more than the rates charged by the serving local exchange company for the same call?

RECOMMENDATION: Yes.

STAFF ANALYSIS: On June 11, 1996, the Commission granted the same exemption to two other pay telephone providers Global Tel*Link (951198-TC) and T-Netix (951546-TP). The reasons staff gave for recommending that those exemptions be granted are the same as in this case and are outlined below.

Staff believes it is in the public interest to allow ATN to handle and bill 0+ local and intraLATA calls placed from confinement facilities. ATN has agreed that it will not charge more than the incumbent LEC for these calls, according to a letter Staff has received from the ATN (Attachment B). In fact, ATN has stated that it will charge less than the serving local exchange company for the same call in some cases.

Staff believes the Commission should grant ATN's petition to handle and bill 0+local and 0+intraLATA traffic from confinement facilities for the reasons given above, and for the same reasons that it has done so in previous dockets (951198-TC and 951546-TP) as outlined below.

HISTORY OF THE POLICY

The policy of reserving 0+local and 0+intraLATA calls for the serving local exchange company (LEC) has been in effect since pay telephone service first became competitive in Florida in 1985. This policy was reaffirmed 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 and protect LEC revenues in an environment of rate of return regulation.

This policy was considered again in Docket No. 930330-TP, Investigation into IntraLATA Presubscription. Order PSC-95-0203-FOF-TP, issued February 13, 1995, found that intraLATA presubscription was in the public interest. This meant that

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interexchange carriers (IXCs) would be allowed to compete with LECs for 1+ and 0+ intraLATA toll traffic for the first time. 0+local traffic would still be reserved for 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. The Commission denied Motions for Reconsideration filed by General Telephone Company of Florida (GTEFL) and BellSouth. GTEFL and BellSouth appealed the Order but the appeals were withdrawn and the Order is now in effect.

CHANGING THE POLICY FOR CONFINEMENT FACILITIES

For security reasons, pay telephones in confinement facilities generally only allow collect local and long distance calls to be made. Commission Rule 25-24.515(15) exempts pay stations located in confinement facilities from certain notice and access requirements. For example, pay stations located in confinement facilities are allowed to block access to other long distance carriers to minimize the ability of inmates to have contact with a live operator.

ATN has asked the Commission to allow it to handle and bill both 0+ local and 0+ intraLATA at its pay telephones located in confinement facilities. In its petition (Attachment A), ATN points to the statutory amendments opening local service to competition, the lifting of the Stay on intraLATA presubscription, 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 ATN 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 are: elimination of operator abuse by inmates, reduction of fraudulent calling, and rates that will not exceed those charged by the serving LEC for the same call.

The Commission has already voted to allow intraLATA competition via presubscription in Docket No. 930330-TP. The Commission should grant ATN an exemption from this rule so that it may handle 0+ local and 0+ intraLATA traffic in confinement facilities.

There seems to be no compelling reason to continue the prohibition against pay telephone providers in confinement facilities handling local and intraLATA calls on a collect basis since Florida Statutes have been amended to permit competition for

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local telephone service and the Commission has been instructed to encourage such competition. Section 364.01(4)(e), Florida Statutes instructs the Commission to "Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory restraints." Section 364.01(4)(f), Florida Statutes instructs the Commission to "Eliminate any rules and/or regulations which will delay or impair the transition to competition."

Allowing ATN to handle local and intraLATA 0+ calls from confinement facilities will facilitate competition as the company will be able to more effectively compete with the LEC for those sites where the traffic is predominately local and intraLATA. ATN is capable of providing 0+ local and 0+ intraLATA service immediately as the technology is already in place within the pay telephone. Staff believes ATN's petition to handle 0+ local and intraLATA calls from confinement facilities should be granted.

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ISSUE 2: Should local exchange companies be ordered to bill 0+ local and 0+ intraLATA calls placed from confinement facilities and handled by ATN when billing for such calls is requested through a valid billing and collection agreement?

RECOMMENDATION: Yes.

STAFF ANALYSIS: LECs should be required to bill such calls when requested through a valid billing and collection agreement. LECs will lose the revenues they would have earned from the confinement facilities served by ATN. However, LECs will still receive some monetary benefit from the calls if the billing and collection agreement calls for them to be paid on a per call basis for the number of calls billed and collected.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: Yes, 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. A protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent ATN from carrying this traffic in a non-protesting LEC's territory.

STAFF ANALYSIS: 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.

The Commission has approved similar requests from Global Tel*Link and T-Netix. Those decisions were protested by two of the rate of return regulated LECs. Staff does not believe ATN should be prohibited from carrying this traffic in a LEC's territory if that LEC does not protest the Commission's action. Accordingly, a protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent ATN from carrying this traffic in a non-protesting LEC's territory.

In re: }
Petition of }
ATN, Inc. }
For Waiver _____ }

Docket No. 960603-TC
Filed:

PETITION FOR WAIVER

Pursuant to Commission Rule 25-24.505(3), Florida Administrative Code, ATN Inc., ("ATN") petitions the Florida Public Service Commission (the "Commission") for a waiver of those rules and policies currently prohibiting Amtel from providing O+ local and O+ intralata calls from its store-and-forward pay telephones located in confinement facilities within the state of Florida. In support of its Petition, ATN states:

Identity of Petitioner

- 1. Petitioner's complete name and address are:

ATN, Inc.
919 Dilworth Street
St. Marys, Georgia 31558

ATN Inc. is a Georgia corporation, duly authorized to do business in the state of Florida under the name Amtel Network, Inc. ATN is a privately owned corporation.

- 2. Pursuant to Commission Order No. PSC-93-0548-FOF-TC issued May 5, 1993 in Docket No.930200-TC, ATN provides pay telephone services from confinement facilities located in the state of Florida.

3. All notices, pleadings, orders or other documents regarding this docket should be directed to :

Robert Spangler, President
ATN, Inc.
919 Dilworth Street
St. Marys, Georgia 31558
Telephone 912-673-6000
Facsimile 912-673-6004

Relief Requested

4. Pursuant to Rule 25-24.505(3), ATN seeks waivers of rules 25-24.515(7) and 25-24.620(2) (c) and (d) and the policies contained in Orders No. 95-0918 issued July 31, 1995, No. 95-203 issued February 13, 1995 and No. 24101 issued February 14, 1991. Specifically, ATN seeks authority to provide and bill for 0+ local and 0+ intraLATA calls placed by inmates of confinement facilities through ATN pay telephones, using store-and-forward technology.

Background

5. ATN currently provides and bills automated 0+ intrastate Florida calls via store-and-forward technology on an interLATA basis, and provides such calls on a local, intraLATA and interLATA basis in each of the other states in which it provides inmate pay telephone service. In Florida, ATN is currently authorized to resell sent-paid local and intraLATA calls and to provide debit cards for inmates of correctional facilities for local and intraLATA toll calling services. However, the Commission has continued to reserve to the LECs the authority to provide 0+ local and 0+ intraLATA calls from any and all pay telephones. Petitioner respectfully states that technology advances and regulatory changes have rendered continuation of this dialing monopoly inappropriate for pay telephones in confinement facilities.

6. Technology advances in store-and-forward pay telephones have enabled inmate service providers to furnish quality calling services for callers and end users while meeting the unique

security needs of the confinement facility. This well-developed and proven technology provides reliable call completion and billing functions without allowing inmates access to the public telephone network, thus reducing harassment and fraud.

7. In addition, two significant regulatory developments have effectively eliminated the original basis for this dialing monopoly. First, in Order No. PSC-95-0203-FOF-TP, the Commission authorized competition and presubscription for intraLATA toll calls. Although the Florida Supreme Court issued a stay of this Order on October 12, 1995, that stay has now been lifted.

8. The second pivotal regulatory development was that on July 1, 1995, competition for all local services was mandated by the Florida Legislature effective January 1, 1996. The Legislature found that competition in the local exchange market is in the public interest.

9. ATN does not intend to offer basic local exchange service and therefore does not seek certification as an alternative local exchange company. ATN seeks only to expand its existing authority to include the provision of 0+ local and 0+ intraLATA calls from its pay telephones located in confinement facilities in order to address the security and control concerns that are paramount in the correctional environment.

10. The Commission's approval of this waiver request is consistent with the legislative mandates to avoid "unnecessary regulatory constraints" and to eliminate rules that "delay or impair the transition to competition." Sections 364.01 (4) (e) and 364.01 (4) (f).

WHEREFORE, ATN respectfully requests that it be granted a waiver of the applicable rules and orders currently prohibiting it from providing and billing 0+ local and 0+ intraLATA calls made from its store-and-forward pay telephones located in confinement facilities, and for such other relief as may be appropriate.

Respectfully submitted, this 8th day of May, 1996.

ATN, Inc.

BY:  _____

Robert Spangler, President
919 Dilworth Street
St. Marys, Georgia 31558
(912) 673-6000

Attachment B



AMERICAN TELECOMMUNICATIONS NETWORK, INC.

919 Dilworth Street, St. Mary's, GA 31558 (912) 673-0000

FACSMILIE TRANSMITTAL SHEET

TO: FLORIDA PUBLIC SERVICE COMMISSION

Date: 7-8-96

ATTENTION: CATHY LEWIS

FAX Number: (912) 673-6004

Number of Sheets (Including Cover Sheet): 1

Comments:

REFERENCE 960603-TC

ATN, INC. WILL CHARGE NO MORE THAN THE RATE CHARGED BY THE SERVING LEC

FOR THE SAME CALL.

Thank You,

ROBERT SPANGLER
PRESIDENT/CEO