

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for waiver of rules and policies to permit provision of 0+ local and 0+ intraLATA utilizing store and forward technology at pay telephones located in correctional institutions and other confinement facilities, by Global Tel*Link Corporation.)	DOCKET NO. 951198-TC
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In Re: Application for certificate to provide pay telephone service by GLOBAL TEL*LINK CORPORATION.)	DOCKET NO. 940984-TC
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In Re: Application for certificate to provide interexchange telecommunications service by GLOBAL TEL*LINK CORPORATION.)	DOCKET NO. 940985-TI ORDER NO. PSC-96-0299-FOF-TP ISSUED: February 27, 1996

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 GRANTING CERTIFICATES AND 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.

I. Background

Global Tel*Link Corporation (GTC) is the corporate successor to Global Telco, Inc. Global Telco, Inc. currently holds Pay

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Telephone Certificate No. 2326 and Interexchange Carrier Certificate No. 2490. On September 16, 1994, GTC filed applications for both a pay telephone and interexchange carrier (IXC) certificate. Between January 1, 1990 and May 31, 1994, Global Telcoin overcharged Florida end users \$14,198. Both applications were held in order to determine a mechanism to refund the Global Telcoin overcharges.

On October 6, 1995, GTC filed a Petition for Waiver of Rule 25-24.515(7), Florida Administrative Code, and the policies contained in several Commission Orders which prohibit pay telephone providers and operator service providers from handling 0+ local and 0+ intraLATA calls via store and forward technology in confinement facilities. GTC's Petition also requested authorization to bill such calls, where applicable, through the services of the appropriate local exchange companies (LECs) since some LECs presently block such billing.

This Order disposes of the outstanding issues in three dockets. In Section II, below, we grant pay telephone and IXC certificates to GTC, cancel those belonging to Global Telcoin and close Docket No. 940985-TI. In Section III, we order GTC to refund overcharges and interest to those end users it can identify and order the company to propose a plan to dispose of the remaining monies. In Section IV, we deny GTC's Petition for Waiver of Rule 25-24.515(7), Florida Administrative Code, and order that Docket No. 951198-TC be closed.

II. Order Granting Pay Telephone and Interexchange Certificates Dockets Nos. 940984-TC and 940985-TI

Global Tel*Link Corporation filed applications for pay telephone and interexchange carrier certificates on September 16, 1994. Docket No. 940984-TC was opened to deal with the pay telephone certificate application and Docket 940985-TI was opened to deal with the interexchange carrier certificate application. The applications disclosed that its predecessor corporation, Global Telcoin, Inc., held pay telephone and interexchange carrier certificates. GTC also disclosed that the management of Global Telcoin had overcharged customers in Florida and several other states. According to a report compiled by Price Waterhouse LLP and filed with the Commission, the overcharges resulted from overtiming calls, adding on charges not disclosed in its tariffs, and using per minute rates exceeding those in its tariffs and the Commission's rate caps. These practices were put in place by the prior management of GTC. GTC replaced all responsible members of the prior management team. GTC new management has stopped the

billing practices which led to the overcharging. A review of GTC's financial capabilities shows that GTC has sufficient financial resources to provide the proposed telecommunications service.

Accordingly, we grant GTC Certificate No. 3878 to provide pay telephone service and Certificate No. 3972 to provide interexchange telecommunications service. GTC should retain this Order as evidence of certification by this Commission. When the Order granting these certificates becomes final, we shall cancel Global Telcoin's Certificates 2326 and 2490 to provide pay telephone and interexchange telecommunications service. If no protest is filed, Docket No. 940985-TI shall be closed when the interexchange certificate is granted.

III. Order Requiring Refunds - Docket 940984-TC

In April of 1995, a class action suit was brought against GTC in the Circuit Court of Mobile County, Alabama for overcharges. Our staff met with company representatives concerning Florida overcharges and determined there were 22,590 telephone calls which originated in Florida between January 1, 1990 and May 31, 1994 subject to refunds totaling \$13,948. In addition, Price Waterhouse estimated setup charges totaling \$250 were overbilled in Florida. Setup charges refer to the extra time, approximately 15 seconds, added on to the beginning of calls. GTC has settled the class action suit brought in Alabama and is ready to begin making refunds to Florida customers.

GTC overcharged Florida customers a total of \$14,198.00. The company has located approximately 46% of the customers that were overbilled and therefore believes it can accomplish direct refunds of approximately \$7,378.00. Our Division of Auditing and Financial Analysis has calculated interest on this amount to be \$1,571.00. GTC expects it can complete refunds to all overcharged customers it can identify and locate within 60 days of the date this Order becomes final. This refund method does not conflict with the settlement agreement reached in the class action suit. Accordingly, we order GTC to refund, with interest, \$14,198 to all overcharged customers.

As described above, GTC does not believe it will be able to locate all of the customers that were overcharged. In previous dockets, we have ordered companies to complete refunds through a prospective rate reduction or to pay the remaining amount to the Commission for deposit in the General Revenue Fund pursuant to Section 364.285, Florida Statutes. Those solutions may not be appropriate here. A prospective rate reduction is not feasible.

The company does not have enough pay telephones in place or operator service contracts to effectuate such a refund in a timely manner. Paying the remaining amount into the General Revenue Fund may not be allowed under GTC's agreement settling the class action litigation. The settlement agreement, Civil Action No. 94-1101, states in pertinent part:

For calls originating in Florida,unvested refunds shall be distributed pursuant to an order of the state PSC or other relevant regulatory body so long as such order directs refunds to be made in any one or more of the following ways: (i) a prospective rate reduction by Global to effectuate the refund within six months from the date of such order, (ii) a payment to a prisoners fund, a fund to provide telephone service to low income consumers, a consumer organization that represents consumers in ratemaking cases, or a fund to provide information to telephone consumers, or (iii) a distribution that otherwise benefits the Class.

We feel it is appropriate to give GTC the opportunity to comply with its settlement. Therefore, we order GTC to file a proposal to accomplish the remainder of the refund in a manner consistent with the settlement after the direct refund has been completed. This proposal shall be filed within 60 days of the date this Order becomes final. Docket 940984-TC will remain open to monitor the direct refunds. We will consider GTC's proposal to dispose of the remaining amounts at a later date.

IV. Order Denying Petition - Docket No. 951198-TC

On October 6, 1995, GTC filed a Petition for Waiver of Rule 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. To dispose of the petition, Docket No. 951198-TC was opened.

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 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.

GTC's 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, GTC 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 GTC 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 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-TP. Therefore, 0+ intraLATA presubscription cannot be implemented at this time.

Absent the Supreme Court's stay, we might find GTC'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

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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 GTC. Accordingly, we deny GTC's petition.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Certificate No. 3972 to provide interexchange telecommunications service is granted to Global Tel*Link Corporation. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed in Docket No. 940985-TI files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, Interexchange Certificate No. 3972 shall become effective on the following date, Certificate No. 2490 shall be cancelled and Docket No. 940985-TI shall be closed. It is further

ORDERED that Certificate No. 3878 to provide pay telephone service is granted to Global Tel*Link Corporation. It is further

ORDERED that Global Tel*Link Corporation refund \$14,198 plus interest directly to overcharged customers. It is further

ORDERED that if Global Tel*Link Corporation cannot locate all of the overcharged customers, it shall file a proposal to dispose of the unrefunded monies within 60 days of the date this Order becomes final. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed in Docket No. 940984-TC files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, Pay Telephone Certificate No. 3878 shall become effective on the following date and Certificate No. 2326 shall be cancelled. It is further

ORDERED that Docket No. 940984-TC shall remain open to monitor the direct refund and consider Global Tel*Link Corporation's proposal to dispose of the unrefunded monies. It is further

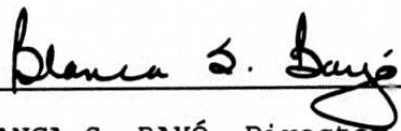
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ORDERED that Global Tel*Link Corporation's Petition for Waiver of Rule 25-24.515(7), Florida Administrative Code, is hereby denied. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed in Docket No. 951198-TC files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, below, that Docket shall be closed. It is further

ORDERED that a protest in any one of these dockets shall not affect any docket in which no protest is filed.

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

Commissioner Julia L. Johnson dissents from the Commission's action in these dockets.

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.