**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**

 **April 25, 1996**

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

**FROM: DIVISION OF COMMUNICATIONS (K. LEWIS)**

 **DIVISION OF LEGAL SERVICES (BILLMEIER)**

**RE: DOCKET NO. 951198-TC - GLOBAL TEL\*LINK CORPORATION - 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.**

**AGENDA: 5/7/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE**

**CRITICAL DATES: NONE**

**SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\951198A.RCM.
LACE AFTER DOCKET NO. 960492-TP**

 **CASE BACKGROUND**

 Global Tel\*Link Corporation (GTC) holds Certificate No. 3878 to provide pay telephone service and Certificate No. 3972 to provide interexchange telecommunications service.

 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/or 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.

 On February 27, 1996, the Commission issued Notice of Proposed Agency Action Order No. PSC-96-0299-FOF-TP which denied GTC's Petition. The Commission voted to implement intraLATA presubscription by Order No. PSC-95-0203-FOF-TP, issued February 13, 1995; however, that Order had been stayed pending disposition of appeals by GTE Florida Incorporated (GTEFL) and BellSouth Telecommunications, Inc. (BellSouth). GTEFL and BellSouth have each withdrawn their appeals. Accordingly, the stay is no longer in effect.

 On March 19, 1996, GTC filed a timely protest requesting the Commission revisit Order No. PSC-96-0299-FOF-TP.

 **DISCUSSION OF ISSUES**

**ISSUE :** Should the Commission grant Global Tel\*Link's Petition for a waiver of Rule 25-24.515(7), Florida Administrative Code, and the policies contained in Orders Nos. 95-0918, 95-0203, and 24101 to permit it to handle 0+ intraLATA and 0+ local calls at confinement facilities?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** 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/or 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. On February 27, 1996, the Commission issued Notice of Proposed Agency Action Order No. PSC-96-0299-FOF-TP denying GTC's Petition. The Commission was concerned that opening the 0+ local and 0+ intraLATA markets to competition would violate the stay of Order No. PSC-95-0203-FOF-TP. Since the Court lifted the stay and the companies have withdrawn their appeals, the stay is no longer a consideration. GTC filed a timely protest to the Order. Staff recommends GTC's Petition be approved and the company be allowed to handle 0+ local and 0+ intraLATA calls from confinement facilities.

 History of the Policy

 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 use store and forward technology. A pay telephone instrument that uses store and forward technology 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".

 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 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 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. The Commission denied Motions for Reconsideration filed by GTEFL and BellSouth. GTEFL and BellSouth appealed the Order but the appeals were withdrawn and the Order is now in effect.

 Global's Request

 GTC 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. 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. The benefits include the elimination of operator abuse by inmates, reduction of fraudulent calling, and possibility of lower rates.

 Staff's Conclusion

 Staff believes Chapter 364, Florida Statutes, allows competition for all types of calls, including 0+ intraLATA and 0+ local calls. Alternative local exchange carriers (ALECs), for example, are permitted under Section 364.337, Florida Statutes, to function like LECs. Staff can find no reason to prevent NPATS from carrying the same calls. Doing so would place NPATS in the odd situation of having to become certificated as an ALEC in order to do what they are technically capable of doing now. It is the intent of Chapter 364 to encourage competition whenever possible and avoid unnecessary regulation. GTC is capable of carrying these calls now; it is unnecessary to require it to become an ALEC to provide the service. Further, allowing competition for 0+ intraLATA and 0+ local calls is a step toward a more competitive market. Consumers may benefit from lower rates and the existing pay telephone rules are suitable for regulating any problems that may arise.

 Staff recommends that GTC's petition be granted and the company be allowed to handle 0+ local and O+ intraLATA calls from confinement facilities.

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

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** The LECs should be required to bill such calls when requested through a valid billing and collection agreement. LECs will lose revenues they would have earned from the confinement facilities served by GTC. However, the LECs will still receive some benefit through whatever billing agreements they reach with GTC.

**ISSUE 3:** Should this docket be closed?

**RECOMMENDATION:** Yes. If no person whose substantial interests are affected files a protest within 21 days of the issuance of this Order, this docket should be closed.

**STAFF ANALYSIS:** If no person whose substantial interests are affected files a protest within 21 days of the issuance of this Order, this docket should be closed.