

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for waiver of) DOCKET NO. 951198-TC
rules and policies to permit) ORDER NO. PSC-96-0867-FOF-TC
provision of 0+ local and 0+) ISSUED: July 2, 1996
intraLATA utilizing store and)
forward technology at pay)
telephones located in)
correctional institutions and)
other confinement facilities, by)
Global Tel*Link Corporation.)
_____)

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 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) 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. 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, we issued Notice of Proposed Agency Action Order No. PSC-96-0299-FOF-TP which denied GTC's

DOCUMENT NUMBER-DATE

07070 JUL-28

FPSC-RECORDS/REPORTING

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

We denied GTC's original petition because we were concerned granting it might violate the Supreme Court's stay of Order No. PSC-95-0203-FOF-TP in Docket 930330-TP. See Order No. PSC-96-0299-FOF-TP at p. 3. On March 13, 1996, the Court lifted the stay of Order No. PSC-95-0203-FOF-TP and, on April 12, 1996, the appeal was dismissed. Therefore, any effect the litigation in Docket No. 930330-TP might have had on this petition is no longer a consideration.

II. History of the Policy

For security reasons, pay telephones in confinement facilities generally only allow collect local and long distance calls to be made. Most 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 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 to protect LEC revenues in an environment of rate of return regulation. By Order No. PSC-95-0203-FOF-TP, we found intraLATA presubscription to be in the public interest and ordered LECs to implement it pursuant to a timetable established in that Order. Under that Order, interexchange carriers will be allowed to carry intraLATA traffic.

III. GTC's Request

GTC has asked the Commission to allow it to handle 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 we 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. GTC's petition also requests authorization to bill such calls, where applicable, through the services of the appropriate LEC since some LECs presently block such billing.

IV. Revenue Impact on Small LECs

According to GTC, the only small LEC territory where it presently operates any pay telephones in confinement facilities is in the territory of Quincy Telephone Company (QTC), where it operates 10 pay telephones at the Gadsden County Jail. Without doing a traffic study QTC stated it was unable to identify the total revenue impact for intraLATA calls. However, QTC estimated that operator service revenues from 0+ local calls at GTC's ten pay telephones in the jail averaged \$4,250 a month and would equate to approximately \$51,000 per year. This annual figure would be reduced by the amounts QTC pays to Sprint for providing operator services and for terminating access. QTC was unable at this time to break down this data for individual pay telephone companies operating in confinement facilities, consequently, it could not provide figures for the total revenue impact.

QTC was also concerned that if one pay telephone company were allowed to handle 0+local and 0+intraLATA traffic from confinement facilities in its service territory then more would surely follow, resulting in additional revenue losses for the company. QTC believes the revenue loss will be significant and will necessitate an increase in basic service rates. However, QTC was unable to quantify the possible revenue loss.

It is not clear that we can protect QTC from competition in the pay telephone market. Pay telephone providers for confinement facilities are selected based upon competitive bids to offer the services. Presumably, as a provider of pay telephone service, QTC could have placed a bid to obtain the contract for the Gadsden County Jail. Even if it fails to win contracts at correctional facilities, QTC may, as a rate base regulated LEC, petition to increase its rates if significant revenue losses occur and may file tariffs to reprice some of its non-basic services to compensate for revenue losses.

V. Conclusion

We believe it is in the public interest to grant GTC's petition. There is no statutory prohibition against allowing NPATS to carry intraLATA traffic. For example, in Section 364.01(3), the Legislature finds that competitive provision of telecommunications services is in the public interest. Section 364.01(4)(b), requires the Commission to encourage competition through flexible regulatory treatment among providers of telecommunications services in order to ensure the availability of the widest possible range of consumer choice in the provision of all telecommunications services. Section 364.01(4)(e), directs the Commission to avoid unnecessary regulatory constraints and Section 364.01(4)(f) requires the Commission to eliminate rules and regulations that would delay or impair the transition to competition.

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. An ALEC could, therefore, carry 0+ intraLATA and 0+ local calls without routing those calls to the LEC. We can find no reason to prevent NPATS from carrying the same calls. It is the intent of Chapter 364 to encourage competition whenever possible and avoid unnecessary regulation. Further, allowing competition for 0+ intraLATA and 0+ local calls is a step toward a more competitive market. Consumers will be billed at the same or lower rates. GTC's system contains security features to prevent inmate fraud. Our existing pay telephone rules are suitable for regulating any problems that may arise. Accordingly, we grant GTC's petition. When this Order becomes final, the company will be allowed to handle and bill 0+ local and 0+ intraLATA calls from confinement facilities. GTC shall charge no more than the rates charged by the serving LEC for the same call. We further order local exchange companies bill 0+ local and 0+ intraLATA calls placed from confinement facilities and handled by Global Tel*Link Corporation when billing for such calls is requested through a valid billing and collection agreement.

Based on the foregoing, it is ..

ORDERED by the Florida Public Service Commission that Global Tel*Link Corporation's Petition for Waiver of Rule 25-24.515(7), Florida Administrative Code, is granted as described in the body of this Order. It is further

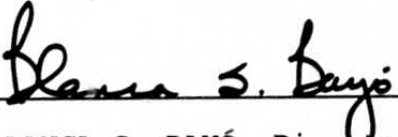
ORDER NO. PSC-96-0867-FOF-TC
DOCKET NO. 951198-TC
PAGE 5

ORDERED that Global Tel*Link Corporation shall charge no more than the rate charged by the serving local exchange company for 0+ intraLATA and 0+ local calls. It is further

ORDERED that local exchange companies bill 0+ local and 0+ intraLATA calls placed from confinement facilities and handled by Global Tel*Link Corporation when billing for such calls is requested through a valid billing and collection agreement. 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 docket shall be closed.

By ORDER of the Florida Public Service Commission, this 2nd day of July, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

LMB

Chairman Susan F. Clark dissents from the Commission's decision in this docket.

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.

ORDER NO. PSC-96-0867-FOF-TC
DOCKET NO. 951198-TC
PAGE 6

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 July 23, 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.