

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

AUGUST 22, 1996

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

FROM: DIVISION OF COMMUNICATIONS (K. LEWIS) *KL*
DIVISION OF LEGAL SERVICES (EDMONDS) *EMB*

RE: DOCKET NO. 960805-TC ATN, INC. - PETITION FOR WAIVER OF
RULE 25-24.515(9), FLORIDA ADMINISTRATIVE CODE

AGENDA: 09/03/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CMU\WP\960805.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. On July 30, 1996, the Commission voted to allow ATN to handle and bill 0+local and 0+intraLATA calls from pay telephones located in confinement facilities.

On July 5, 1996, ATN filed a Petition for Waiver of those rules and policies currently prohibiting the company from installing concentrators to allow up to three instruments per access line for its payphones located in confinement facilities (Attachment A). Staff believes the petition is more properly termed a petition for exemption authorized by Rule 25-24.505(3), Florida Administrative Code.

By Order No. 14529, issued July 1, 1985, the Commission required that only one pay telephone instrument be installed per access line. Local exchange company (LEC) tariffs generally reflect this requirement and contain language requiring pay telephone providers to order a separate public telephone access line for each telephone instrument installed. In addition, the provisions of Rule 25-24.515(9), Florida Administrative Code, require each telephone instrument to be connected as provided in

DOCUMENT NUMBER DATE

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FPSC-RECORDS/REPORTING

DOCKET NO. 960805-TC
DATE: AUGUST 22, 1996

the LEC's access tariff. Staff's recommendation addresses ATN's petition for an exemption from these rules and policies.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant ATN's petition for an exemption from the provisions of Rule 25-24.515(9), Florida Administrative Code, and Order No. 14529 which prohibit ATN from installing up to three pay telephone instruments per access line in confinement facilities.

RECOMMENDATION: Yes, the exemption should be granted for ATN's pay telephones located in confinement facilities only and provided there is a concentration of no more than three pay telephone instruments per access line.

STAFF ANALYSIS: The policy of a one to one ratio of payphone instruments to access lines was established in Order No. 14529, issued July 1, 1985, which states:

"We find that it is also in the public interest that we require one PATS instrument per coin access line. We reach this conclusion in the effort to avoid a payphone customer getting a busy signal when he attempts to use the payphone when an emergency arises. The probability of getting a busy signal increases when a line is shared by several PATS instruments."

LEC tariffs contain language requiring pay telephone providers to order a separate public telephone access line for each telephone instrument installed. In addition, Rule 25-24.515(9), Florida Administrative Code, states "Each telephone station must be connected as provided in the pay telephone access tariff offered by the local exchange company."

Confinement facilities have their own emergency response systems in place and Rule 25-24.515(15), Florida Administrative Code, exempts payphones located in confinement facilities from the

DOCKET NO. 960805-TC
DATE: AUGUST 22, 1996

requirement to provide access to 911. For these reasons, the concern with inmates getting a busy signal when they try to reach emergency services is moot.

Staff has summarized the key points ATN made in its petition below.

- 1) ATN will be able to more cost effectively serve a wider range of the inmate population within a specific confinement facility. Inmate access to telephone service will be improved since more instruments will be in place throughout the facility.
- 2) Concentrator equipment will allow access by all stations within the concentrated block of instruments to a series of access lines on a first-available line basis, thereby improving the statistical probability of connection to an outside line.
- 3) Though more instruments will be available for use throughout the facility, there will be no change in the fact that only one instrument at a time can be in use on a single access line. When all access lines are in use, all non-using instruments will receive a busy signal until an access line becomes available.
- 4) Generated revenues for the provider and the facility operator will be improved.
- 5) ATN has experience with line concentration in confinement facilities in other states, and no adverse service effects have been observed or reported in those states.
- 6) ATN will not use concentrators anywhere other than confinement facilities.
- 7) The Commission's approval of ATN's petition is consistent with 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), Florida Statutes.

DOCKET NO. 960805-TC
DATE: AUGUST 22, 1996

Staff believes that a three to one ratio of payphones to access lines will allow adequate access to telephone service by the inmate population. However, if the administrators of a correctional facility were not satisfied with the level of access, staff believes that ATN would be responsive to the facility as failure to do so might jeopardize its contract for pay telephone service.

The only issue not addressed in ATN's petition is what effect there might be on the revenues of rate of return regulated LECs if ATN reduces the number of access lines it purchases to serve a confinement facility due to the use of three to one concentrators. At this writing ATN only provided service to confinement facilities in the territories of BellSouth, Sprint/United and GTE Florida, Inc. Therefore, this issue is not of immediate concern. However, staff is aware that some small rate of return regulated LECs may have a concern about how granting ATN's petition might impact their earnings if ATN were to provide service in their territory in the future.

Staff recommends that ATN's petition be granted.

ISSUE 2: 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 using a concentration of no more than three pay telephone instruments per access line 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.

Some of the Commission's recent decisions to exempt payphone providers serving confinement facilities from certain rules and policies has resulted in protests being filed by two rate of return regulated LECs. Staff does not believe ATN should be

DOCKET NO. 960805-TC
DATE: AUGUST 22, 1996

prohibited from using a concentration of no more than three pay telephone instruments per access line 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 using a concentration of no more than three pay telephone instruments per access line in a non-protesting LEC's territory.