

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for waiver of
rules and requirements
prohibiting provision of 0+
local and 0+ intraLATA calls
from store-and-forward pay
telephones located in
confinement institutions, by
Gateway Technologies, Inc.

DOCKET NO. 970333-TC
ORDER NO. PSC-97-0664-FOF-TC
ISSUED: June 10, 1997

The following Commissioners participated in the disposition of
this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER

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.

CASE BACKGROUND

Gateway Technologies, Inc. (Gateway or company) holds Pay
Telephone Certificate No. 5102 with an effective regulation date of
March 18, 1997.

On March 18, 1997, Gateway 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. The Notice of Petition for
Waiver was submitted to the Secretary of State for publication in

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FPSC-RECORDS/REPORTING

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the Florida Administrative Weekly, pursuant to Section 120.542, Florida Statutes. No comments were submitted during the comment period, which ended April 25, 1997.

Gateway currently does not provide service within the state of Florida. The company installs sophisticated premises equipment in confinement institutions that permits inmates to make outgoing, collect-only calls without the assistance of a live operator. The company's service is provided through telephone instruments connected to a centralized call processing unit with store-and-forward capability.

DISCUSSION

In Order No. PSC-96-0884-FOF-TP implementing 1+intraLATA competition via presubscription for non-local exchange company (LEC) pay telephone providers and call aggregators. We have also granted exemptions to allow telephone providers to handle 0+ local and intraLATA traffic in confinement facilities. Three small rate-of-return regulated LECs filed protests to the Orders granting those exemptions; however, each protest has been withdrawn, and the Orders have become final.

Upon consideration, 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 the Florida Statutes have been amended to permit competition for local telephone service, and we have been instructed to encourage such competition. Section 364.01(4)(e), Florida Statutes, instructs us 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 us to "eliminate any rules and/or regulations which will delay or impair the transition to competition."

Allowing Gateway to handle 0+ local and 0+ intraLATA calls from confinement facilities will facilitate competition as the company will be able to more effectively compete for those sites where the traffic is predominately local and intraLATA. Thus, Gateway has demonstrated that the purpose of Chapter 364.01, Florida Statutes, the underlying statute, would be served by granting this waiver request. Further, Gateway has demonstrated that enforcement of the requirement would violate principles of fairness as the requirement is no longer necessary in a competitive

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environment. Gateway is capable of providing 0+ local and 0+ intraLATA service immediately as the technology is already in place within the pay telephone.

CONCLUSION

Upon consideration under the authority of Chapter 120.542, Florida Statutes, we hereby grant Gateway's petition for waiver of our rules and requirements to allow it to handle 0+ local and 0+ intraLATA calls from confinement facilities.

This docket shall be closed unless a person whose substantial interests are affected by our decision files a protest within 21 days of the issuance of this Proposed Agency Action Order. A protest filed by a LEC shall be applicable only to that LEC's territory and shall not prevent Gateway from carrying this traffic in a non-protesting LEC's territory.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Gateway Technologies, Inc.'s Petition for Exemption from rules and requirements prohibiting provision of 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement institutions at no more than the rates charged by the serving local exchange company for the same call is hereby granted. It is further


ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that any protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent Gateway Technologies, Inc. from carrying the 0+ local and 0+ intraLATA traffic in a non-protesting LEC's territory. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission, this 10th
day of June, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

WPC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 1, 1997.

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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.