

MEMORANDUM

October 14, 1998

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RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (COX) *WPC* *MCB*

RE: DOCKET NO. 980602-TC - Petition by Telequip Labs, Inc. 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.

PSC-98-1390-FOF-TC

Attached is a NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING WAIVER PETITION to be issued in the above-referenced docket.
(Number of pages in order - 6)

WPC/slh
Attachment
cc: Division of Communications
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Telequip Labs, Inc. 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.

DOCKET NO. 980602-TC
ORDER NO. PSC-98-1390-FOF-TC
ISSUED: October 15, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER 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

On July 14, 1998, we granted Telequip Labs, Inc. (Telequip) pay telephone certificate No. 5869. Telequip is a newly certificated company and plans to install pay telephones through Requests for Proposals (RFPs) for various city, county and state agencies to serve inmate population needs.

On April 30, 1998, Telequip 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 petition for waiver exemption was submitted to the Secretary of State for publication in the Florida Administrative Weekly, pursuant to Section 120.54,

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FLORIDA PUBLIC SERVICE COMMISSION

Florida Statutes. No comments were submitted during the comment period, which ended June 5, 1998. On August 25, 1998, Telequip filed an amendment to its waiver petition. In this amendment, the petitioner addressed Section 120.542, Florida Statutes, and waived the 90-day statutory deadline for the our decision on the petition. Set forth below is our decision on Telequip's waiver petition.

II. DISCUSSION

On June 11, 1996, we granted the same exemption to two other pay telephone providers: Global Tel*Link, Order No. PSC-96-0867-FOF-TC; and T-Netix, Order No. PSC-96-0868-FOF-TP. Also, on July 30, 1996, we granted the same exemption to Ameritel in Order No. PSC-96-1063-FOF-TC. The reasons for granting those exemptions are the same as in this case and are outlined below.

We believe it is in the public interest to allow Telequip to handle and bill 0+local and 0+intraLATA calls placed from confinement facilities. Telequip has stated in its petition that it will not charge more than the incumbent local exchange company (LEC) for these calls.

HISTORY OF THE POLICY

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 protect LEC revenues in an environment of rate of return regulation.

We considered this policy again in Docket No. 930330-TP, Investigation into IntraLATA Presubscription. In Order No. PSC-95-0203-FOF-TP, issued February 13, 1995, we found that intraLATA presubscription was in the public interest, and allowed interexchange carriers (IXCs) to compete with LECs for 1+ and 0+ intraLATA toll traffic for the first time. 0+local traffic is still reserved for the LECs. We ordered large LECs to implement intraLATA presubscription throughout their service areas by December 31, 1997. We allowed small LECs to delay implementation until they received a bona fide request.

CHANGING THE POLICY FOR CONFINEMENT FACILITIES

For security reasons, pay telephones in confinement facilities generally only complete collect local and long distance calls to be made. Rule 25-24.515(15), Florida Administrative Code, exempts pay telephones located in confinement facilities from certain notice and access requirements. For example, pay telephones located in confinement facilities may block access to other long distance carriers to minimize inmates' contact with a live operators.

Telequip has petitioned us to allow it to handle and bill both 0+ local and 0+ intraLATA calls at its pay telephones located in confinement facilities. In support of its petition, Telequip points to the statutory amendments opening local service to competition, our order on intraLATA presubscription, and the company's capability to handle such traffic as reasons that we no longer need to reserve such traffic for the LEC. The petition also states that the store and forward technology Telequip presently uses to handle and bill interLATA calls in confinement facilities will provide the same benefits to the institutions, the company, and the end-users that the LEC would provide. These benefits are: elimination of operator abuse by inmates, reduction of fraudulent calling, and rates that will not exceed those charged by the serving LEC for the same call.

III. CONCLUSION

Upon consideration, we hereby grant Telequip an exemption from this rule so that it may handle 0+ local and 0+ intraLATA traffic in confinement facilities. 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 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." Thus, granting the waiver would serve the purposes of the underlying statute, as required by Section 120.542, Florida Statutes.

Through its petition and amendment, Telequip has demonstrated that allowing it to handle local and intraLATA 0+ calls from confinement facilities will facilitate competition and relieve substantial economic hardship; thus the company can more effectively compete with the LEC for those sites where the traffic is predominantly local and intraLATA. Telequip is capable of providing 0+ local and 0+ intraLATA service immediately, as the technology is already in place within the pay telephone. Thus, we believe Telequip's petition to handle 0+local and 0+intraLATA calls from confinement facilities should be granted, because it has met the requirements of Section 120.542, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Telequip Labs, Inc.'s petition for waiver of rules and requirements prohibiting provision of 0+ local and 0+ interLATA calls from store-and-forward pay telephones located in confinement institutions, is granted. It is further

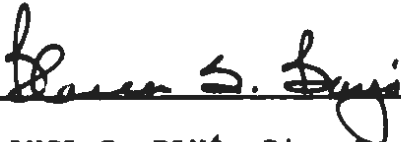
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, 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 a protest filed by a local exchange company shall be applicable only to that local exchange company's (LEC's) territory and shall not prevent Telequip Labs, Inc. from carrying this traffic in a non-protesting LEC's territory.

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 15th
day of October, 1998.



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. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, 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 November 5, 1998.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date.

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.