

M E M O R A N D U M

November 18, 1998

11/19 AM 9:39

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (WATTS) *CBW MCB*
RE: DOCKET NO. 981092-TC - Petition by Cannon Telephone Company for waiver of rules and requirements prohibiting provision of 0+ local and intraLATA calls from store and forward pay telephones located in confinement institutions.

98-1530-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 - 5)

CBW/slh
Attachment
cc: Division of Communications
I:981092.cbw

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Cannon Telephone Company for waiver of rules and requirements prohibiting provision of 0+ local and intraLATA calls from store and forward pay telephones located in confinement institutions.

DOCKET NO. 981092-TC
ORDER NO. PSC-98-1530-FOF-TC
ISSUED: November 19, 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

I. BACKGROUND

On September 1, 1998, Cannon Telephone Company (Cannon) 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, Florida Statutes. No comments were submitted during the comment period, which ended October 9, 1998. On September 18, 1998, Cannon Telephone Company filed an amendment to its waiver petition. In its amendment, the petitioner addressed Section 120.542, Florida Statutes, and waived the 90-day statutory deadline for our decision on the petition. Set forth below is our decision on Cannon's waiver petition.

DOCUMENT NUMBER-DATE

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REGISTRATION/REPORTING

II. DISCUSSION

On October 15, 1998, we granted the same exemption to Telequip Labs, Inc. Additionally, 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. 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 Cannon Telephone Company, Inc. to handle and bill 0+ local and 0+ intraLATA calls placed from confinement facilities. Cannon has stated in its petition that its services will eliminate the opportunity for an inmate to harass a live operator.

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.

Cannon 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, Cannon 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 Cannon presently uses to handle and bill intraLATA 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 and reduction of fraudulent calling.

III. CONCLUSION

Upon consideration, we hereby grant Cannon Telephone Company 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, Cannon 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. Cannon 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 Cannon's petition to handle 0+local and 0+intraLATA calls

ORDER NO. PSC-98-1530-FOF-TC
DOCKET NO. 981092-TC
PAGE 4

from confinement facilities should be granted, because it has met the requirements of Section 120.542, Florida Statutes.

Based on the foregoing, it is

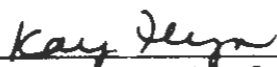
ORDERED by the Florida Public Service Commission that Cannon Telephone Company's petition for waiver of rules and requirements prohibiting provision of 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement institutions, is granted. It is further

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 Cannon Telephone Company 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.

By ORDER of the Florida Public Service Commission this 19th day of November, 1998.



KAY FLYNN, Chief
Bureau of Records

(S E A L)

CBW

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 December 10, 1998.

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.