

# TCG

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January 23, 1995

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FILE COPY

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
101 East Gaines Street, Room 107  
Tallahassee, Florida 32399-0850

**Re: Docket No. 921974-TP - Petition for Reconsideration**

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Teleport Communications Group, Inc. ("TCG") are the original and fifteen (15) copies of our Petition for Reconsideration.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

Teresa Marrero  
Regulatory Counsel

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**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Expanded Interconnection )	Docket No. 921074-TP
Phase II and Local Transport )	Docket No. 930955-TL
Restructure )	Docket No. 940014-TL
)	Docket No. 940020-TL
)	Docket No. 931196-TL
)	Docket No. 940190-TL

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**TELEPORT COMMUNICATIONS GROUP INC.'S MOTION  
FOR RECONSIDERATION OF ORDER NO. PSC-95-0034-FOF-TP**

TELEPORT COMMUNICATIONS GROUP INC. ("TCG"), pursuant to Rule 25-22.060, Florida Administrative Code and Order No. PSC-95-0034-FOF-TP ("Order"), respectfully submits this Motion for Reconsideration to the Florida Public Service Commission ("Commission") to reconsider its determination that Alternative Access Vendors ("AAVs") are prohibited from providing local transport services for use by interexchange carriers. In support of this Motion, TCG states as follows:

- A. The Commission's Finding May Be In Impermissible Conflict With the Federal Communications Commission ("FCC") Switched Access Expanded Interconnection Policies.**

TCG is concerned that the Commission's Order, if not reconsidered, may be in unacceptable conflict with the FCC's policies. It must be recognized that no policy of this Commission can prevent IXCs and AAVs from establishing interstate private lines in Florida to be connected to Feature Groups ordered from interstate tariffs. They have that clear right under FCC Orders. That will happen.

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It is important to consider what might happen next if this Commission's Order is not changed. In the originating direction -- where the consumer places an intrastate long distance call -- either of two things could logically happen. If the only trunks available to complete those calls are Feature Groups provisioned from a collocation arrangement, the LEC may threaten to block those calls, or even do so. That will hardly be a result in keeping with the public interest, but could well result from this Commission's Order. Alternatively, LECs could in effect require that all IXCs that use AAV facilities must have their intrastate switched access calls completed over separate "intrastate traffic only" connections which can only be purchased from the LEC. That result would also be contrary to the public interest. It would create a clear discrimination, since the LEC's switched access customers would be permitted to combine their interstate and intrastate traffic on the same facility, while AAV customers would not.

These results would clearly frustrate the FCC's collocation and switched access policies. If forced to address such an inequality and clear discrimination, the FCC might seek to preempt the Commission's policies and direct that AAVs be permitted to receive intrastate calls. Alternatively, the FCC might seek to resolve the discrimination by requiring that LECs provision all their originating switched access facilities with separate interstate and intrastate trunks, so that both AAVs and LECs face the same competitive situation. Either result is not

desirable, since it simply creates ambiguity, conflict, and potential higher costs and inconvenience where none need exist.

The Commission should seek to avoid such a harm to the public by reconsidering its decision. TCG offers below two approaches on which such a reconsideration could proceed.

**B. Local Transport, Whether Used to Ultimately Connect to Customer-Order Special or Switched Access Facilities, Constitutes the Provision of Private Line Service between an Entity and Its Facilities.**

Florida statutes, Section 364.337(3)(a) states that an AAV is permitted to provide "private line service between an entity and its facilities at another location or dedicated access service between an end-user and an interexchange carrier" (emphasis supplied). There are, therefore, two separate definitions of permissible services that AAVs can offer. The Commission's decision is chiefly directed at the second of those definitions. The first definition, however, permits the offering of local transport services by an AAV from an interexchange carrier's office to the IXC's switched access facilities at a local exchange carrier office.

The first question in addressing the applicability of the first definition is whether the facility is a "private line." The provision of local transport by an AAV involves the establishment of a dedicated service from the interexchange carrier's office to the collocation space in the local exchange carrier's office. *That is where the AAV's service ends, unless*

the AAV itself provides service beyond that point. More typically, from the AAV's collocation arrangement the interexchange carrier utilizes a dedicated "cross connection facility" purchased from the LEC. That cross connection is in turn connected to a local exchange carrier's special access facilities or switched access facilities. There is absolutely no difference between the AAV's transport services in either case, and indeed the AAV need not even know whether a particular local transport service is connected to a switched access feature group or special access -- that is entirely the interexchange carrier's choice. It is, therefore, incorrect to say that the AAV is providing a switched service to the IXC, or carrying "switched traffic." It is also important to recognize that, as the Commission's order confirms, an interexchange carrier can connect its own switches together using an AAV's facility. Order at 26. If an AAV service can be a private line when it connects two IXC switches together, there is no logical or legal basis to claim that the identical AAV facility cannot be a private line when it connects an IXC-owned switch to switching facilities purchased by an IXC from a LEC. If one is a private line, the other must be also. In short, once the traffic reaches the AAV -- on either end of the dedicated circuit -- it is not switched and the service can only be a private line.

The second question is whether the private line is connected to the IXC's facilities. In the case of switched access facilities (sometimes called "Feature Groups"), these facilities

will be ordered by, and in the name of, the interexchange carrier. The IXC must be the customer of record for these Feature Groups so that its presubscribed customers can reach it over those facilities. If the AAV were the customer of record then only customers presubscribed to the AAV -- if any -- would be completed to that facility. Accordingly, the Feature Groups are facilities used by the IXC, and the AAV-provided private line connects to them as permitted by the rule.

AAV local transport service thus falls clearly and squarely within the definition of a "private line service between an entity and its facilities at another location." The connection from the interexchange carrier to the collocation facility -- the only service offered by the AAV -- is clearly a private line. The service is continuous and dedicated exclusively to the use of that IXC -- which has exclusive control over what information is placed on the transport service. No other customer's services can be placed on the dedicated facilities, and all the information placed into the facility at the interexchange carrier's office emerges unchanged at the LEC's cross connections. The AAV's facility allows the IXC to connect to its facilities at another location -- in this case the Feature Group facilities that it obtains from the LEC.

**C. The Definition of End User for Operator Service Providers Should Not Be Applied to Access Facilities.**

The Commission concludes that the second part of the definition, which focuses on end users, does not apply to the provision of local transport. Order at 25. The Commission uses the meaning of "end user" designed to be applied to operator service providers as its definition for access services. That is incorrect and should be reversed.

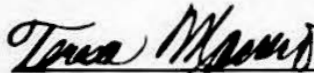
The "end-user" definition for operator services providers ("a person who initiates a call or is billed for a telephone call") is specifically tailored to define end users as people placing calls. That definition is flatly inconsistent with the statutory language. Such a definition would indicate that no one is an end user of a private line, since "calls" are neither initiated on private lines nor are calls on private lines billed. That illustrates the inappropriateness of the Commission's definition, since "end user" is defined in the statute as a party which obtains a "dedicated access service." The definition of the term end user must be applied in a manner that is consistent with the intent of the statute, and the Commission's approach is not.

The end users for access services are IXCs. For switched access services, for example, IXCs are the customer of record, the IXCs order the trunks from the LECs, and the IXC is billed for the service by the switched access provider. Accordingly, under a proper reading of the term end user, AAVs are permitted

to provide dedicated transport to IXCs, who can then chose to connect it to switched access facilities. Under the second definition of permitted AAV services, therefore, the Commission should authorize AAVs to provide these dedicated access services to IXCs for connection to their switched access services.

WHEREFORE, TCG respectfully requests that the Commission reconsider its order, so as to avoid harm to the public, impermissible conflict with core Federal Communications Commission policies and the consequent risk of preemption, and to ensure that Commission's policies are in keeping with the public interest.

Respectfully submitted,



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January 24, 1995



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Prehearing Statement of Teleport Communication's Group, Inc. was furnished by U. S. Mail to the following, on the 24th day of January, 1995:

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