



Public Service Commission

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10/22/98 4:11:17

DATE: 10/22/98

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

FROM: DIVISION OF COMMUNICATIONS (YAMBOR) *JJ v. James*
DIVISION OF LEGAL SERVICES (WAFTS) *CBW*

RE: DOCKET NO. 981092-TC - CANNON TELEPHONE COMPANY- 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

AGENDA: 11/03/98 - REGULAR AGENDA -PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: STATUTORY DEADLINE 11/30/98-WAIVED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\981092TC.RCM

CASE BACKGROUND

Cannon is a newly certificated company and plans to install pay telephones for various city, county and state agencies to serve inmate population needs.

On September 1, 1998, 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. On September 25, 1998, Cannon filed an amendment to its waiver petition. In this amendment, Cannon supplemented its petition with information required by Section 120.542, Florida Statutes and requested waiver of the 90 day statutory deadline for the Commission's decision on the petition.

Additionally, in Order No. PSC-98-1210-NOR-TP, it is proposed that Rule 25-24.515 (22), Florida Administrative Code, exempt pay telephone stations in confinement facilities from Rule 25-24.515 (7), Florida Administrative Code.

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Set forth below is staff's recommendation on Cannon's waiver petition.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Cannon's Petition for waiver of Rule 25-24.515(7), and Rule 25-24.620(2)(c) and (d), Florida Administrative Code, and the policies contained in Order Nos. PSC-95-0918-FOF-TP, PSC-95-0203-FOF-TP, 24101, and most recently, PSC-98-1390-FOF-TC, to permit it to handle and bill 0+ local and 0+ intralata calls from pay telephones located in confinement facilities?

RECOMMENDATION: Yes. (Yamvor)

STAFF ANALYSIS: On June 11, 1996, the Commission 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, the Commission granted the same exemption to Ameritel in Order No. PSC-96-1063-FOF-TC. Most recently, the Commission granted Telequip Labs Order No. PSC-98-1390-FOF-TC the same exemption. The reasons for granting those exemptions are the same as in this case and are outlined below.

Staff believes it is in the public interest to allow Cannon to handle and bill 0+ local and intraLATA calls placed from confinement facilities. Additionally, staff agrees with the proposed rule changes that would, if adopted, exempt Cannon. Thus a waiver request would not be needed.

HISTORY OF THE POLICY

The policy of reserving 0+local and 0+intraLATA calls for the serving local exchange company (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. Additionally, the policy serves to protect LEC revenues in an environment of rate of return regulation.

This policy was considered again in Docket No. 930330-TP, Investigation into IntraLATA Presubscription. Order PSC-95-0203-FOF-TP, issued February 13, 1995, found that intraLATA presubscription was in the public interest, and allowed

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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 and ALEC's. The Commission ordered large LECs to implement intraLATA presubscription throughout their service areas by December 31, 1997. The Commission allowed small LECs to delay implementation until they received a bona fide request.

On October 15, 1993, the Commission again considered the same exemption for Teleguip Labs, Inc. which was granted by Order No. PSC 98-1390-FOF-TC.

CHANGING THE POLICY FOR CONFINEMENT FACILITIES

For security reasons, pay telephones in confinement facilities generally only allow collect local and long distance calls to be made. Commission 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 live operators.

Cannon has asked the Commission 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, the Commission order on intraLATA presubscription, and the company's capability to handle such traffic as reasons the Commission need no longer reserve such traffic for the LEC. The petition also states that the store and forward technology Cannon 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 and reduction of fraudulent calling.

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 predominately 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. Staff

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believes Cannon's petition to handle 0+ local and intraLATA calls from confinement facilities should be granted as it has met the requirements of Section 120.542, Florida Statutes, Variances and Waivers.

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 Cannon from carrying this traffic in a non-protesting LEC's territory. (Watts)

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.

The Commission has approved similar requests from Global Tel*Link, T-Netix, Ameritel. Those decisions, with the exception of Telequip, were protested by two of the rate of return regulated LECs. Staff does not believe Cannon should be prohibited from carrying this traffic 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 Cannon from carrying this traffic in a non-protesting LEC's territory.