

FLORIDA PUBLIC SERVICE COMMISSION
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M E M O R A N D U M

May 7, 1997

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

FROM: DIVISION OF COMMUNICATIONS (HAWKINS) *P.S.H.*
DIVISION OF LEGAL SERVICES (COX) *W.C. NKB* *AW*

RE: DOCKET NO. 970333-TC - GATEWAY TECHNOLOGIES, INC. -
PETITION FOR EXEMPTION 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.

AGENDA: 05/17/97 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: S:\PSC\CHU\WP\970333.RCM

CASE BACKGROUND

Gateway Technologies, Inc. (Gateway) 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 Florida Administrative Weekly April 2, 1997. No comments were submitted during the comment period, which ended April 25, 1997. The Statutory Deadline for the Commission's decision regarding this petition is June 6, 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.

DOCUMENT NUMBER-DATE

04528 MAY-76

FPSC-RECORDS/REPORTING

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant Gateway's Petition for exemption from Rule 25-24.515(7), and Rule 25-24.620(2)(c) and (d) Florida Administrative Code, and the policies contained in Orders Nos. 95-0918, 95-0203, and 24101 to permit it to handle and bill 0+ local and 0+ intralata calls from pay telephones located in confinement facilities at no more than the rates charged by the serving local exchange company for the same call?

RECOMMENDATION: Yes.

STAFF ANALYSIS: The Commission has already issued Order No. PSC-96-0884-FOF-TP implementing 1+intraLATA competition via presubscription for non-LEC pay telephone providers and call aggregators. The Commission has 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.

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 the Commission has been instructed to encourage such competition. Section 364.01(4)(e), Florida Statutes instructs the Commission 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 the Commission to "eliminate any rules and/or regulations which will delay or impair the transition to competition."

Allowing Gateway to handle local and intraLATA 0+ 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 the purpose of Chapter 364.01, Florida Statutes, the underlying statute, would be served by granting of this waiver request. Further, enforcement of the requirement would violate principles of fairness as the requirement is no longer necessary. Gateway is capable of providing 0+ local and 0+ intraLATA service immediately as the technology is already in place within the pay telephone. Staff believes Gateway's petition to handle 0+ local and 0+ intraLATA calls from confinement facilities should be granted under the authority of Chapter 120.542, Florida Statutes.

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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 Gateway from carrying this traffic in a non-protesting LEC's territory.

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.

As stated in the staff analysis of issue 1, the Commission has approved similar requests from five other pay telephone providers. Those decisions were protested by three of the rate of return regulated LECs. Staff does not believe Gateway 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 Gateway from carrying this traffic in a non-protesting LEC's territory.