BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In Re: Petition for waiver of rules and policies which prohibit the handling of operator-assisted local calls, by One Call Communications, Inc. d/b/a Opticom, a division of One Call Communications, Inc. | ) DOCKET NO. 961224-TI<br>) ORDER NO. PSC-97-0144-FOF-TI<br>) ISSUED: February 11, 1997 |

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
SUSAN F. CLARK
J. TERRY DEASON
JOE GARCIA
DIANE K. KIESLING

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. OPTICOM's Waiver Request

One Call Communications, Inc. d/b/a OPTICOM (OPTICOM) holds pay telephone certificate no. 2443 with an effective regulation date of May 15, 1990. On October 10, 1996, OPTICOM 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 it serves. Pursuant to Order No. 22848 issued May 14, 1990 in Docket No. 891244-TI, OPTICOM provides intrastate operator services in Florida and provides such calls on a local, intraLATA and interLATA basis in many of the other states in which it provides operator services. OPTICOM does not intend to offer basic local

service and therefore, does not seek certification as an alternative local exchange company. The Company seeks only to expand its authority to include the provision of operator assisted local calls originating from payphone locations in confinement facilities it serves.

## II. History of the Policy

We have 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 five other pay telephone providers to handle 0+local and intraLATA traffic in confinement facilities (951198-TC, 951546-TP, 960407-TC, 960570-TC and 960603-TC). Three small rate-of-return regulated LECs (Quincy Telephone Company, Alltel Florida, Inc., and Indiantown Telephone System, Inc.) filed protests to the Orders granting those exemptions and all five dockets have been scheduled for hearing.

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."

## III. Conclusion

Allowing OPTICOM 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. OPTICOM is capable of providing 0+ local and 0+ intraLATA service immediately as the technology is already in place within the pay telephone.

Therefore, we grant OPTICOM'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. For these services, OPTICOM shall charge no more than

the rates charged by the serving local exchange company for the same call.

This docket should be closed unless a person whose substantial interests are affected by our decision files a protest within 21 days of the issuance of this Order. We have approved similar requests from five other pay telephone providers. Those decisions were protested by three of the rate of return regulated LECs. We find OPTICOM shall not be prohibited from carrying this traffic in a LEC's territory if that LEC does not protest our 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 OPTICOM from carrying this traffic in a non-protesting LEC's territory.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that OPTICOM'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, is granted as described in the body of this Order. It is further

ORDERED that OPTICOM shall charge no more than the rate charged by the serving local exchange company for 0+ intraLATA and 0+ local calls. It is further

ORDERED that, unless a person whose substantial interests are affected by the action proposed herein files a petition in the form and by the date specified in the Notice of Further Proceedings or Judicial Review, this docket shall be closed. It is further

ORDERED that a protest filed by a local exchange company shall only be applicable to that local exchange company's territory and shall not prevent OPTICOM from handling this traffic in the territory of a local exchange company that does not protest this Order.

By ORDER of the Florida Public Service Commission, this 11th day of February, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

( S E A L )

WPC

Commissioner Susan F. Clark dissents from the Commission's decision in this docket.

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), 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 March 4, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.