

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for review of rates and charges paid by PATS providers to LECs)	DOCKET NO. 860723-TP
)	
)	
In re: Request by PHONE CONTROL SECURITY, INC. for reconsideration of the rate cap for local non-operator assisted calls from a penal institution)	DOCKET NO. 891168-TC
)	ORDER NO. 24101
)	ISSUED: 02/14/91

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
FRANK S. MESSERSMITH

Pursuant to notice, a public hearing was held in this docket on August 1-3, 1990, in Tallahassee, Florida.

APPEARANCES:

DAVID B. ERWIN, Esquire, Mason, Erwin & Horton, P.A., 1311-A Paul Russell Road, Suite 101, Tallahassee, Florida 32301, on behalf of ALLTEL Florida, Inc., Gulf Telephone Company, The Florida Telephone Company, Inc., Indiantown Telephone System, Inc., Northeast Florida Telephone Company, Inc., St. Joseph Telephone & Telegraph Company, Southland Telephone Company, Vista-United Telecommunications, & Quincy Telephone Company.

MICHAEL W. TYE, Esquire, 315 South Calhoun Street, Suite 860, Tallahassee, Florida 32301, on behalf of AT&T Communications of the Southern States, Inc.

BRUCE W. RENARD, FLOYD R. SELF, & BARRY E. SELVIDGE, Esquires, Messer, Vickers, Caparello, French, Madsen & Lewis, P.A., Post Office Box 1876, Tallahassee, Florida 32302-1876, on behalf of Florida Pay Telephone Association, Inc.

THOMAS R. PARKER, Esquire, Post Office Box 110, MC 7, Tampa, Florida 33601, on behalf of GTE Florida, Incorporated.

DOCUMENT NUMBER DATE

01442 FEB 14 1991

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JAMES J. FREEMAN, Esquire, Reed, Smith, Shaw & McClay, 1200 18th Street, N.W., Washington, D.C. 20036, and LEE RAU, Esquire, Reed, Smith, Shaw & McClay, 8201 Greensboro Drive, Suite 820, McLean, Virginia 22102, on behalf of Intellicall, Inc.

ALAN N. BERG, Esquire, Post Office Box 5000, Altamonte Springs, Florida 32716-5000, on behalf of United Telephone Company of Florida.

HARRIS R. ANTHONY, Esquire, c/o Marshall M. Criser, III, 150 So. Monroe Street, Suite 400, Tallahassee, Florida 32301, and J. LLOYD NAULT, II, & MARY JO PEED, Esquires, 4300 Southern Bell Center, 675 W. Peachtree Street, NE, Atlanta, Georgia 30375, on behalf of Southern Bell Telephone and Telegraph Company.

LEE L. WILLIS, Esquire, Ausley, McMullen, McGehee, Carothers & Proctor, Post Office Box 391, Tallahassee, Florida 32302, on behalf of Central Telephone Company of Florida.

D. BRUCE MAY, Esquire, Holland & Knight, Post Office Drawer 810, Tallahassee, Florida 32302, on behalf of International Telecharge, Inc.

ANGELA B. GREEN & TRACY HATCH, Esquires, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0863, on behalf of the Commission Staff.

PRENTICE P. PRUITT & CYNTHIA B. MILLER, Esquires, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0862, on behalf of the Commissioners.

PARTIES

Local Exchange Companies (LECs)

- *ALLTEL Florida, Inc. (ALLTEL)
- Central Telephone Company of Florida (Centel)
- *The Florida Telephone Company, Inc. (Florida)
- GTE Florida, Inc. (GTEFL)
- *Gulf Telephone Company (Gulf)

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*Indiantown Telephone System, Inc. (Indiantown)
 *Northeast Florida Telephone Company, Inc. (Northeast)
 *Quincy Telephone Company (Quincy)
 Southern Bell Telephone and Telegraph Company (Southern Bell)
 *Southland Telephone Company (Southland)
 *St. Joseph Telephone and Telegraph Company (St. Joe)
 United Telephone Company of Florida (United)
 *Vista-United Telecommunications (Vista-United)

*referred to collectively as the small LECs

Others

AT&T Communications of the Southern States, Inc. (ATT-C)
 Florida Pay Telephone Association, Inc. (FPTA)
 Intellicall, Inc. (Intellicall)
 International Telecharge, Inc. (ITI)
 Phone Control Security, Inc. (PCSI)

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FINAL ORDER

BY THE COMMISSION:

I. BACKGROUND

On August 26, 1988, the following parties entered into a Stipulation to resolve the issues in this docket: Florida Pay Telephone Association, Inc. (FPTA), Southern Bell Telephone and Telegraph Company (Southern Bell), Central Telephone Company of Florida (Centel), GTE Florida, Inc. (GTEFL), United Telephone Company of Florida (United), and AT&T Communications of the Southern States, Inc. (ATT-C). Upon review of this Stipulation, we voted to defer our consideration of the issues addressed in the Stipulation until the September 6, 1988, Agenda Conference.

During the September 6, 1988, Agenda Conference, we voted to reject the Stipulation and continue with the hearing scheduled for September 8 and 9, 1988. However, at that hearing, upon further review of the Stipulation and the issues set forth in the Prehearing Order, we reconsidered our decision to reject the

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Stipulation. Upon reconsideration, we voted to adopt all portions of the Stipulation as resolution of all pending issues except as to those issues identified in paragraphs 3 and 4 of the Stipulation. Accordingly, on October 6, 1988, we issued Order No. 20129 accepting certain portions of the Stipulation. The Order established that the terms of the Stipulation would remain in effect for a period of two years from September 8, 1988, or until September 8, 1990. As to those issues identified in paragraphs 3 and 4 of the Stipulation, we received evidence and testimony upon which we made a final determination, as reflected in Order No. 20610, issued January 17, 1989.

The rates currently charged by local exchange companies (LECs) to nonLEC pay telephone service (NPATS) providers for interconnection to the LEC network were part of the Stipulation adopted by Order No. 20129. These rates are shown below as they appear in the stipulation.

1. The rate structure and level for interconnection of NPATS to the LEC network shall be as follows:

A. Flat rate line charge of 80% of the applicable B-1 rate.

B. An on-peak measured rate element for local calls of 4¢ for the first minute of use and 2¢ for each additional minute of use.

C. For Southern Bell, an off-peak measured rate element for local calls of 2¢ for the first minute of use and 1¢ for each additional minute of use; for Centel, GTEFL, and United, an off-peak measured rate element for local calls of 3¢ for the first minute of use and 1¢ for each additional minute of use. Off-peak discount periods shall be the same as the current tariffs for NPATS interconnection.

D. Billing of usage charges shall be in six (6) second increments for additional minutes, or in one (1) second increments with regard to additional minutes with the total additional minutes rounded to the nearest minute at the end of each billing period. United shall not

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be required to provide six second billing for additional minutes until its billing system has been modified to accommodate such billing, but in no event shall such modification be accomplished later than the time period established in Florida Public Service Commission Docket No. 880603-TP, and United will attempt to complete the modification prior to the date established in that docket. Southern Bell shall not be required to provide six second billing for additional minutes until its billing system has been modified to accommodate such billing, but in no event later than January 1, 1990.

E. A monthly minimum charge of \$30.00 per line including both flat rate and usage charges.

F. LECs shall reduce their current tariffed or pending tariffed rates for operator screening/international blocking by a total of \$1.00, except for Centel which shall continue to charge its current tariff rates. It shall be mandatory for subscribers to NPATS lines to take billed number screening, operator screening, and international call blocking wherever available from the LEC. Current LEC tariffs for local NPATS interconnection shall remain the same, except for the above modifications. The LECs should file revised tariffs containing such modifications as soon as practical, but no later than 30 days from Commission approval hereof.

2. The flat rate surrogate where local measuring and billing are not available shall continue to be \$65.00

Among other things, in Order No. 20610, we continued the NPATS rate cap at the ATT-C direct-distance-dialed (DDD) daytime rate, plus applicable operator/calling card charges, plus the up to \$1.00 NPATS surcharge. Additionally, this Order reiterated our policy that all zero minus (0-) and zero plus (0+) intraLATA (local access transport area) traffic be routed to the LEC from NPATS

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telephones, consistent with our prior decisions in Docket No. 871394-TP.

On February 1, 1989, FPTA filed a Motion for Clarification and/or Reconsideration of Order No. 20610. Timely responses to FPTA's motion were filed by GTEFL, Southern Bell and United. FPTA's motion asked us to reconsider or clarify the following portions of Order No. 20610: (1) the historical basis of the \$1.00 surcharge; and (2) the requirement that all 0- and 0+ intraLATA traffic be routed to the applicable LEC from NPATS telephones. All three responses to FPTA's motion urged that it be denied.

By Order No. 21614, issued July 27, 1989, we denied FPTA's motion. An additional portion of Order No. 21614 was a Notice of Proposed Agency Action (PAA) whereby we would: (1) require all LECs to bill, collect, and remit to NPATS providers the up to \$1.00 surcharge on 0- and 0+ intraLATA LEC-handled calls placed from NPATS telephones, to be done as soon as possible, but no later than January 1, 1990; and (2) change the rate cap for intraLATA calls placed at NPATS telephones from the ATT-C daytime rate, plus applicable operator/calling card charges, plus \$1.00, to the applicable LEC time-of-day rate, plus applicable operator/calling card charges, plus \$1.00. No protest was filed to our proposal, so Order No. 21614 became final on August 18, 1989, as reflected in Order No. 21761, issued August 21, 1989.

On August 11, 1989, FPTA filed a document entitled "Motion to Reconsider, Clarify, or Stay Portions of Order No. 21614," along with a Request for Oral Argument on the motion. FPTA's motion asked us to reconsider, clarify, and/or stay that portion of Order No. 21614 requiring that all 0- and 0+ intraLATA traffic be routed to the applicable LEC from NPATS telephones, to the extent that the disposition of this traffic was not tied to a requirement that the LECs bill and collect the up to \$1.00 NPATS surcharge on behalf of the NPATS providers. Timely responses to FPTA's motion were filed by GTEFL, Southern Bell and United. On August 25, 1989, FPTA filed its Notice of Appeal of Order No. 21614 to the Supreme Court of Florida.

By Order No. 21813, issued August 31, 1989, as amended, the Prehearing Officer denied FPTA's request for oral argument. By Order No. 22022, issued October 9, 1989, we denied FPTA's motion for reconsideration or clarification of Order No. 21614 as procedurally improper. In addition, we denied FPTA's request to

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stay Order No. 21614, finding such action unwarranted given the facts of the case.

On October 6, 1989, the Supreme Court of Florida dismissed the appeal of Order No. 21614, pursuant to the Notice of Voluntary Dismissal filed by FPTA.

On November 1, 1989, the LECs began filing tariff proposals in response to Order No. 21614. By Order No. 22385, issued January 9, 1990, as amended, we approved the LECs' tariff proposals, but ordered that all nonrecurring charges imposed for initiation of the service be held subject to refund by the LECS, pending our further investigation into the matter of the nonrecurring charges. All of the tariff proposals included a fixed surcharge amount of \$.75 per call, to be billed by the LEC, for all 0- and 0+ intraLATA completed toll calls originating from NPATS telephones which have subscribed to this service.

By Order No. 22514, issued February 8, 1990, we granted a Motion for Extension of Time to comply with Order No. 21614 filed by Vista-United. Vista-United was granted an extension until March 1, 1990, to complete all of the actions necessary to comply with Order No. 21614. By Order No. 22764, issued April 3, 1990, this deadline was subsequently extended to June 1, 1990.

On March 12, 1990, the Prehearing Officer issued Order No. 22669 by which certain parties would be dropped from the docket unless, within twenty days following the issuance of the Order, the person or entity wishing to retain party status filed a motion to renew its intervention in this docket. Subsequently, the nine small LECs sought and were granted intervention by separate orders issued on April 4, 1990.

On April 13, 1990, the Prehearing Officer issued Order No. 22824 setting forth the prehearing procedures to be utilized in this docket and the deadline dates for certain key activities in the proceeding. For discovery matters, the Prehearing Officer directed that objections or requests for clarification to either interrogatories or production requests would have to be registered within ten (10) days of service of the particular discovery request. Additionally, the Prehearing Officer waived Rule 1.340(a), Florida Rules of Civil Procedure, insofar as the Rule limits the initial number of interrogatories which may be served.

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By Order No. 22874, issued April 30, 1990, we approved Southern Bell's tariff proposal to implement incremental billing of additional minutes of usage to NPATS providers, retroactive to January 1, 1990, with interest. Additionally, we voted on our own motion to extend the terms of the Stipulation, due to expire September 8, 1990, until a new order is issued from the hearing held August 1 through 3, 1990.

On April 23, 1990, Southern Bell filed a Motion for Reconsideration of Order No. 22824's shortened time frame for objections to discovery requests. On April 30, 1990, GTEFL filed a Motion in Support of Southern Bell's April 23rd motion. On April 30, 1990, Centel also filed a Motion for Reconsideration of Order No. 22824. Both GTEFL and Centel concurred with the substance of the Southern Bell motion. On May 8, 1990, FPTA filed its Response to the Motions for Reconsideration of Order No. 22824. By Order No. 23075, issued June 14, 1990, we denied the motions filed by Southern Bell, GTEFL and Centel.

In Order No. 23046, issued June 7, 1990, we clarified Order No. 21614 to state that the NPATS surcharge does not apply to local calls originating from NPATS telephones. We noted, however, that the issue of compensation for non-sent-paid local calls would be addressed in the upcoming hearing.

By Order No. 23076, issued June 14, 1990, we denied the Motions to Withdraw from this docket filed by seven of the small LECs and by Centel.

In Order No. 23151, issued July 5, 1990, we directed that Docket No. 891168-TC be consolidated into this docket. We took this action because the issue remaining for resolution in Docket No. 891168-TC was identical to an issue that had already been set for hearing in this docket.

A Prehearing Conference was held on July 9, 1990, in Tallahassee, Florida, as reflected in Order No. 23273, issued July 31, 1990. The Order sets forth the parties' positions on the issues, the order of the witnesses, the prefiled exhibits and testimony, and various other procedural matters. In addition, at the Prehearing Conference, the Prehearing Officer denied the Motion to Revoke Intellicall's Party Status filed May 31, 1990, by GTEFL.

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Formal hearings were held in this matter on August 1 through 3, 1990, in Tallahassee, Florida.

II. INTRODUCTION

One of our original reasons for setting this docket for hearing was to examine those issues addressed in the Stipulation adopted by Order No. 20129. Although the terms of the Stipulation were to expire after two years, we subsequently extended the Stipulation until this Order from our hearing becomes final. See Order No. 22874. Another reason we set this docket for hearing was to review cost data relative to the provision of pay telephone services, both LEC (LPATS) and nonLEC (NPATS). See Order No. 20610. We directed that this data be submitted for our review so that we could reach an informed decision regarding the appropriate level of rates charged to end users at pay telephones. Id.

Due to advances in technology and changing market conditions, additional issues were included in this proceeding beyond those addressed in the Stipulation. One of these additional issues was whether NPATS providers should be allowed to utilize store and forward technology to handle local and intraLATA zero plus (0+) traffic historically reserved to the LECs. Another additional issue was whether different rate caps and operational terms and conditions should be authorized for penal institutions and hospitals for the mentally ill (referred to collectively as confinement facilities).

Our role in this proceeding has been to evaluate the evidence submitted and to weigh inevitably competing and sometimes inconsistent goals to reach a decision that is in keeping with our responsibility to regulate telecommunications utilities in the public interest. This balancing has been further complicated by the fact that many of the factors being weighed are themselves involved in an evolutionary process. We recognize that this has been the nature of the telecommunications industry, particularly since divestiture.

When we first found competition in the pay telephone market to be in the public interest, it was our belief that the benefits of such competition would ultimately flow through to end users. As the evidence in this proceeding has demonstrated, such has not been the case. Rather, the primary beneficiary to date appears to be the location owner who has seen a steady increase in the amount of

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commission payments as individual providers compete to secure particular locations for their telephones. One of our objectives in reaching the decisions below is to shift the benefits that have accrued to location owners back to end users as we originally envisioned occurring with competition.

III. LEC RETENTION OF 0+ LOCAL AND 0+ INTRALATA TRAFFIC

Since the inception of competition in the provision of pay telephone services in Florida, we have reserved to the LEC all calls originated from NPATS using the following dialing patterns: (1) all 0- calls; (2) all 0+ local calls; and (3) all 0+ intraLATA calls. Presently, NPATS are authorized to compete with LPATS for sent-paid local and sent-paid (one plus (1+)) intraLATA calls, although for 1+ intraLATA calls, the call must be handed off to the LEC. Sent-paid, as used in the previous sentence, refers to calls where the end-user deposits coins in the telephone. Additionally, for interLATA calls, NPATS may presubscribe their telephones to the interexchange carrier (IXC) of their choice, subject to our requirement that where access is provided to any IXC, access must also be provided to all locally available IXCs as well.

One of FPTA's primary objectives in this proceeding has been to obtain authorization for NPATS providers to handle 0+ local and 0+ intraLATA traffic through the use of store and forward technology. As discussed in greater detail below, we have determined that NPATS providers shall not be granted such authority. There has been no evidence introduced in this proceeding to persuade us that our generic routing requirements for this traffic should be changed as a whole or that NPATS providers should be granted a special exemption separate from other telecommunications entities.

We also believe it is appropriate to state once again that 0-, 0+, and 1+ dialing patterns are defined from the end user's perspective. It is the digits entered by an end user customer that control the routing of the call, not any number translations that may be performed by the NPATS provider's equipment.

A. Basic Arguments

In general, the basic arguments of the parties fell along predictable partisan lines. The LECs, except for Centel and GTEFL, strongly opposed the prospect of granting NPATS providers the

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authority to handle 0+ local and 0+ intraLATA calls through the use of store and forward technology. The LECs basically saw no reason to depart from our existing traffic routing requirements, particularly given the extensive reexamination of the subject recently concluded in Docket No. 880812-TP. GTEFL initially indicated conditional support for FPTA's proposition, but later reversed its position after the conclusion of the evidence in this proceeding. Centel took no position on this or any other issue, primarily due to its extensive involvement in its own pending rate case proceeding.

FPTA asserted that authorizing NPATS to handle 0+ local and 0+ intraLATA calls with store and forward technology would result in equivalent or better services at reduced costs, with savings being passed on to end users. FPTA acknowledged that these calls constitute a significant portion of all traffic generated from NPATS instruments. Even so, FPTA claimed the LECs would be paid for transmission, validation, and billing and collection, while NPATS would receive the applicable operator-assist charge.

Intellicall, a major manufacturer of "smart phones" containing store and forward functionalities, quite expectedly supported the position of FPTA. ITI, a nationally known alternative operator services (AOS) provider, did not oppose FPTA's request, so long as other providers of operator services would be given the same opportunity to compete for this traffic.

Neither ATT-C nor PCSI took any position on this issue. It should be noted that while PCSI only participated in the issue regarding rates, terms, and conditions for PATS in confinement facilities (Section VII, below), the debit card system it has proposed in that issue requires that some operator functions (e.g., rating and timing) be performed within the telephone itself, in a manner similar to that advocated by FPTA for NPATS in this issue. The difference, however, is that debit card calls (proposed by PCSI for confinement facilities only) are sent-paid calls and are dialed as 1+ or seven digits by the end user from the start.

B. Policy History

As stated at the beginning of this section, our current policy requires NPATS providers to route all 0-, 0+ local, and 0+ intraLATA calls to the applicable LEC. This requirement stems from our long-standing policy that reserves intraLATA traffic to the

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LEC, originally established in Docket No. 820537-TP. By Order No. 13750, issued October 5, 1984, we directed that LECs shall have toll transmission monopoly areas (TMAs) within Equal Access Exchange Areas (EAEAs), with EAEA toll competition limited to wide area telecommunication service (WATS) and message toll service (MTS) resale. However, an IXC not having screening capability could carry this traffic while paying the existing MTS rate to the LEC.

ATT-C subsequently requested clarification of Order No. 13750 as it related to the carrying of intraLATA intraEAEA traffic. In Order No. 13912, we restated our intent that the LEC is to be the carrier of all intraLATA 1+ and 0+ traffic.

In Order No. 14132, issued February 27, 1985, we found it in the public interest to authorize NPATS for both local calls and intrastate toll. In order to allow NPATS to compete with the LEC for local calls, we pursued an amendment to Chapter 364, Florida Statutes. The 1985 Florida Legislature then amended Section 364.335, Florida Statutes, specifically to allow competition by NPATS for local calls, under Commission regulation. After this amendment, there has been considerable debate by NPATS providers regarding our routing requirement for 0-, 0+ local, and 0+ intraLATA traffic.

This apparent confusion stems from the fact that although the 1+, 0+, and 0- restriction has been in place since 1984, the amendment to Section 364.335 allowed NPATS providers to compete with the LEC for local traffic. This amendment was only for NPATS providers. Therefore, the debate focuses on the ability to compete for the operator service function, which has been granted, in a sense, for 1+ calls.

Direct dialed 1+ calls have always required some operator services, whether performed by a live operator or by an automated system. These services consist of rating the call, informing the end user of the charges, collecting the coins, timing the call, and advising the caller when additional coins are needed. Before PATS competition, these operator service functions were provided by the LEC (and still are, from LPATS). Presently, NPATS provide these operator functions themselves for 1+ calls, utilizing a robotic system resident within the instrument. Even so, our restrictions require that the calls be handed off to the LEC. While the current FPTA proposal addresses only 0+ local and 0+ intraLATA calls, this

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information on 1+ NPATS calls is important for comparison purposes. In this proceeding, FPTA has proposed that NPATS providers be allowed to provide their own operator service functions on 0+ local and 0+ intraLATA calls, while continuing to hand off these calls to the LECs. Under this scenario, 0+ intraLATA calls would be delivered to the LEC end office as 1+ calls and 0+ local calls would be delivered as ordinary seven digit calls.

By Order No. 20129, issued October 6, 1988, in this docket, we approved a Stipulation, except for those issues identified as paragraphs 3 and 4 of the Stipulation. Paragraph 4 pertained to the routing of 0- and 0+ intraLATA traffic, as well as compensation for that traffic. Because of the potential relationship of this issue to Docket No. 871394-TP, we deferred the matter for consideration in that docket.

Order No. 20489, a final order after hearing, was issued on December 21, 1988, in Docket No. 871394-TP. At pages 10-11 of that Order, we directed that:

G. AOS providers shall route all zero plus (0+) intraLATA or intramarket calls to the LEC. There has been no new evidence presented to alter our previous rulings on this issue. However, whether 0+ traffic will continue to be routed to the LEC will be considered on a generic basis in Docket No. 880812-TP.

....

H. All zero minus (0-) traffic shall be routed to the LEC. Zero minus is defined as where an end user dials 0 and no additional digits within five seconds. This policy shall remain in effect pending our investigation into EAEAs, TMAs, 1+ restrictions to the LECs and elimination of the access discount in Docket No. 880812-TP.

Our decision to reserve 0- and 0+ intraLATA traffic to the LEC was based on two points. First, this policy has been in effect since the original decision in 1984, which was reaffirmed by Order No. 16343, issued July 14, 1986. Second, the 0- policy is consistent with our support of a standard nationwide dialing plan.

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We reaffirmed our 0- and 0+ intraLATA policy in Order No. 20610, issued January 17, 1989, in this docket. FPTA then asked us to reconsider this requirement. As grounds for its request, FPTA contended that Order No. 20610 "apparently approved paragraph 4 of the Stipulation." From this "apparent approval," FPTA then reasoned that we meant to link a LEC billing and collection requirement to our disposition of this traffic. By Order No. 21614, issued July 27, 1989, we denied FPTA's request for reconsideration. In so doing, we stated:

We are disturbed by FPTA's attempt to advance such an argument. Our reservation of 0- and 0+ intraLATA traffic to the LECs is a matter of long standing policy of this Commission. This has not been a conditional requirement in the past and was not meant to be one in Order No. 20610. We did not overlook or fail to consider anything when we stated this policy in Order No. 20610.

While we have reaffirmed our position on the 0- and 0+ intraLATA restriction in several dockets, we have noted that this policy would be reviewed on a generic basis in Docket No. 880812-TP. On October 1, 1990, we issued Order No. 23540, our final order after hearing in that docket. In that Order, we once again determined that the 1+, 0+, and 0- dialing policies shall be continued.

Historically, we have treated 1+ and 0+ dialing the same. However, in the hearing in Docket No. 880812-TP, we addressed the 0+ dialing pattern separately from 1+ dialing because it is technically possible that the dialing restrictions could be modified for one and not the other. In fact, in that proceeding, ITI sought permission to covert intraLATA 0+ and 10XXX dialed calls for routing to AOS providers. After consideration of this issue, we determined it was not appropriate to change our dialing restrictions for AOS providers. See Order No. 23540. We found that all of the uncertainties and problems discussed in relation to the 1+ restriction applied with equal force to 0+ dialing. We noted in closing that LEC retention of 1+ and 0+ dialing included 0- calls as well.

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C. Benefits and Deficiencies of Store and Forward Technology

The technical operation of store and forward technology was described by FPTA's witness Hanft and Intellicall's witness Presson. In these descriptions, the methods proposed for handling 0-, 0+ collect, and 0+ calling card calls were covered in detail.

For 0- calls, witness Hanft stated that after an end user dialed 0-, a voice prompt would instruct the caller to dial "0" for an emergency call, "1" to place a collect call, or "3" to reach a live operator. If the caller failed to enter any digits following the voice prompt, the caller would be connected to a live operator. Under cross examination, witness Hanft agreed that such a procedure was inconsistent with our policy for 0- calling. He stated that this feature is used in other states and that here in Florida, the 0- would go directly to the LEC. He further stated that routing the 0- call directly to the LEC is the way his present store and forward pay telephones operate in Florida.

For collect calls, the smart phone requests the name of the calling party through a recorded audible request. The calling party's response is then recorded by the set for future use. Next, the set accesses the network and outpulses the required digits to validate that the called number is a billable number. If the called number is billable, the end user is so advised by recorded announcement and the pay telephone accesses the network and sends the call out on a seven digit or 1+ basis. When the called line answers, the party is informed by a recording "You have a collect call from _____." At this point, the earlier recorded name in the voice of the call originator is transmitted. The called party is then instructed to dial "1" to accept the charges or to dial "0" and hang up to reject the charges. If the charges are rejected, the call originator is informed of this by a recorded message. If the charges are accepted, the parties are connected and the necessary billing data is recorded by the pay telephone set and stored for future billing.

Calling card calls are handled in a manner similar to collect calls, except that instead of requesting a name, a bong tone prompts the caller to enter the calling card number via the key pad. The NPATS set then remotely validates the card number. If the card number is not a valid number, the end user is informed by a recording. If the card number is valid, the call is sent to the

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network on a 1+ basis and the billing information is recorded by the set.

The recorded billing data for both types of calls discussed above is periodically downloaded from the pay telephone by the NPATS provider and sent to a clearinghouse billing agent. This agent aggregates data from a variety of providers and sends it to the appropriate LEC for billing. The operation of store and forward for collect and calling card calls described above is identical for both 0+ local and 0+ intraLATA toll calls, except that local calls are sent to the LEC as ordinary seven digit local calls, while the 0+ toll calls are sent to the LEC as 1+ calls.

One of the deficiencies of store and forward technology is that if a collect call is made to a rotary dial telephone, the acceptance or rejection of charges procedure discussed above will not work and the call cannot be completed. The NPATS telephone cannot, at this time, recognize the dial pulses it receives from the called telephone. The phone makes a second attempt by repeating the recorded message and, after no recognizable response, the call is disconnected. In this situation, the calling party would not know what happened, although witness Presson believed the caller probably would have some indication of the status, since upon the second attempt, the called party would likely make some remark which could then be heard by the caller. In order to complete the call, the call originator must hang up and originate the call again by dialing 0- to access the LEC live operator who will process the collect call. Witness Presson testified that Intellicall is developing a method whereby the pay telephone will be able to recognize the voice words "yes" and "no" so that the positive acceptance requirement could be met on collect calls to rotary dial telephones. However, he was not able to furnish a date when this system would be available. This problem also occurs on collect calls to a touchtone telephone if the called party does not respond by keying either "1" or "0." In this case, the called party would be prompted with instructions a second time, but if no response is made, the call ends up in limbo just as in the rotary dial case.

Witness Hanft stated that it is possible that in the no response or rotary dial cases, the set could be programmed to automatically transfer the call to a live operator. However, unless the call is restarted and sent to the LEC as a 0+ call, the operator screening functions would be lost. This is because the

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original call was sent to the network as a 1+ call. The operator screening information is only transmitted by the end office on 0+ calls. We believe a better method for handling these calls must be developed, including a way for the called and calling party to access a live operator for assistance, before store and forward should be deployed for 0+ local and 0+ intraLATA toll calls.

On calling card calls, the store and forward technology functions just like the LEC and IXC systems that have been operating for years except for the following differences. LEC and IXC systems assume that the call is a calling card call and immediately transmit the "bong" to request that the user enter the calling card number. If the system gets no response to the "bong," it brings in a live operator to assist the user with a collect or other type call. Store and forward technology requests a decision up front from the user to select calling card, collect or live operator by entering a digit from the key pad. If the user selects calling card, the system transmits the "bong" tone. Both systems, after receiving the calling card number, proceed with the validation procedure and complete the call or give a recorded announcement based on the results of the validation check. We believe that the store and forward procedure on 0+ calls from NPATS instruments should also deliver the bong tone immediately after receiving the 0+ digits and should offer a menu to the caller only after receiving no response.

At the present time, the NPATS instrument translates the dialed digits on 0+ calls to determine if the call is either a local or intraLATA call and if it is, the network is accessed and the dialed 0+ number is transmitted to the serving LEC end office for handling. Therefore, the network is involved throughout the entire process (securing the calling card number, validation procedure, and the acceptance or rejection procedure on collect calls). With store and forward, on the other hand, during the time spent securing the call type and calling card number, only the pay telephone is involved and the network is not accessed until after this data is stored for future use. Even then, network access is a separate call used for validation only and the LEC receives the same revenue as on any other 950 call. This access is usually via a 950 number to reach a validation data base. If the calling card number is valid, the network is accessed again and the call is then delivered to the LEC end office as a 1+ call.

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This saving of network time was claimed by witnesses Presson and Hanft to be a benefit to the LEC on 0+ intraLATA toll and 0+ local calls, although neither could quantify the network time or cost savings. We do believe that the network usage would be less if store and forward is utilized. The amount of time savings would depend on the time required for validation on all calls. Any cost savings from the acceptance or rejection on collect calls would have to consider all network operations. This could only be determined through detailed studies. Another benefit to the LEC would be that on collect calls that are rejected by the called party, the LEC would receive revenue from the NPATS provider for the completed call used in the acceptance or rejection routine. This is discussed further below.

On 0+ intraLATA collect calls (after validation) store and forward sends the call to the LEC on a 1+ basis. As stated above, one of the detriments of this feature is that if the call is ultimately transferred to the LEC because a live operator is required, the operator would not have the screening indication and might assist the caller on a sent-paid type call that would be billed to the NPATS line. This could open the door to fraud.

Another result of the collect call going to the LEC as a 1+ call is that if the called party refuses to accept the charges, the NPATS provider is still charged for a toll call by the LEC because the 1+ call became a completed call as soon as the called party answered. This means that the LEC would be billing the NPATS provider for a 1+ toll call on all collect 0+ intraLATA calls when: (1) charges are not accepted; (2) calls are answered by an automatic answering device; (3) where the called telephone is a rotary dial telephone; and (4) for calls to a touchtone telephone where no response is made by the end user. While this is a benefit to the LEC, the record does not quantify it. In addition to the toll call charges, the NPATS provider would be paying for validation service on each of these calls and not receiving any revenue because these are uncompleted calls from the end user's perspective. It should be noted that on all of these calls, the called party will not be able to access a live operator. Also, the calling party can only access a live operator if he hangs up and then dials 0-. We believe that a method for the called and calling parties to access a live operator should be developed before store and forward is authorized for 0+ local and 0+ intraLATA toll calls. We also believe that, when developed, this feature should be

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incorporated into the store and forward equipment now being used for 0+ interLATA dialing.

Although the technical deficiencies discussed above cannot be disregarded, we believe that each one could and would be solved if store and forward technology were to be approved for 0+ local and 0+ intraLATA toll calls. Therefore, we wish to make it clear that our denial of this authority is not based on technical reasons alone. Store and forward technology, with some of these same deficiencies, is currently being used in Florida for interLATA 0+ calls. No evidence was introduced in this record to show that end users have experienced undue difficulties as a result.

D. Conclusion

We believe that the policy considerations discussed in Section III-B above must continue to guide us in making our determination on this issue. We have not wavered from our original decision that all 0+ local and 0+ intraLATA toll calls must be handled by the LEC. In setting this policy, it was our intention to include the operator service function as well. We had the opportunity to reexamine this policy on a generic basis only recently in Docket No. 880812-TP and concluded that our dialing policies shall remain in effect. See Order No. 23540. There was no evidence introduced in this proceeding to indicate that the policy outlined in Section III-B above and reaffirmed by Order No. 23540 should be changed as a whole or that NPATS providers should receive a special exemption separate from other telecommunications entities. Accordingly, we find it appropriate to deny authorization to NPATS providers to handle 0+ local and 0+ intraLATA traffic through the use of store and forward technology.

In addition, where NPATS providers already utilize store and forward technology to process interLATA calls, we find that they shall be required to comply with all the same operating terms and conditions as any other AOS provider as to those calls. The only exception shall be the rates that may be charged to end users as set forth below.

IV. END USER RATES

Our main thrust in authorizing rate caps when we originally allowed competition in the pay telephone market was to protect the ratepayers in Florida who depend upon pay telephones for their

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communication needs. We were concerned with assuring that the introduction of competitive pay telephone service did not result in the substitution of an unregulated defacto monopoly in place of the regulated monopoly existing at that time. By imposing rate caps, we established a means whereby pay telephone users would not become captive end users forced to pay exorbitant prices with little or no alternative available. This situation can exist in areas where there is only one pay telephone provider and, without rate caps, the end user would be forced to pay whatever charge was exacted. The only alternative for the end user would be not to place the call or possibly to search for another pay telephone, sometimes not a viable alternative.

Although we have authorized competition in the pay telephone market, we have seen no evidence in this proceeding that pay telephone service is truly a competitive market as to end users. We agree with both FPTA's witness Hanft and GTEFL's witness James that rate caps should be unnecessary in a competitive market and that end user prices should be determined by market forces. However, it is our belief that while there exists a quasi-competitive pay telephone market, there are still substantial monopoly characteristics whereby end users are captive customers. Witness James testified that:

Today, competition in the pay telephone business is focused squarely on the location owner and not on the end user. To date, the benefits of a competitive pay telephone marketplace have flowed to the paystation owner in the form of a higher level of commissions than previously available where the LECs were the sole source of pay telephone service.

We agree with witness James' assessment of the status of competition in the pay telephone market. In effect, competition in this market has established a substantial revenue source for location owners through increased commission payments by both NPATS and LPATS providers. The benefits of competition to the end user have been marginal, at best. Our purpose in opening this market to competition was to provide benefits to the ratepayers of Florida, not to provide additional revenue opportunities for location owners.

Because we have previously imposed rate caps on intrastate toll calls, some might argue that it is difficult to assess how

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NPATS providers would have reacted in their absence. However, in the interstate market where rate caps are not in effect, there are numerous instances on record where end users have been charged exorbitant rates. If, in fact, pay telephone service was truly a competitive market, NPATS providers would have been forced to charge rates near or equal to those of the dominant carriers or be forced out of business. Yet, based upon revenue information provided by FPTA, one of their members is the most profitable NPATS provider operating in Florida, while charging rates for interstate toll calls far in excess of those of the dominant carriers.

It is also important to note that the majority of pay telephone users are comprised of the transient public as testified by witness Hanft. As a result, in certain locations such as bus terminals, airports, and sometimes even hotel lobbies, the end user is a captive customer. Hanft also testified, however, that he did not believe all customers were captive, although he was unable to quantify the number of customers he believed were not. Hanft particularly disputed the notion that customers at a convenience store, for instance, were in any way captive. We strongly disagree with this notion. Although technically the customer is not captive because he is free to "shop around," we do not believe the public is well served if the customer cannot receive service at rates that are just and reasonable. Additionally, if the end user has an emergency or even just time constraints, he is indeed truly captive.

GTEFL's witness James testified that rate caps are an appropriate method to ensure end user safeguards. If pay telephone service was in fact a fully competitive market, then end user knowledge of rates through proper signage would be all that is needed to protect customers from excessive rates. Unfortunately, end users do not price shop when placing pay telephone calls. When a customer needs to make a call, he generally does not have the luxury to shop for the best price.

We find that the great weight of the evidence in this record clearly supports the continued use of rate caps for pay telephone service providers. Rates caps are a necessary mechanism to ensure that end users are not abused. We believe that the majority of payphone users are indeed captive customers. We do not find it reasonable to assume that a person needing to make a call will simply drive around in search of lower rates. Further, we do not believe the public interest would be served if customers in fact

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must search out pay telephone service with reasonable rates. Accordingly, we shall continue to impose rate caps for NPATS service.

We note witness Hanft's testimony that "sharing the Commission's public interest concerns, the FPTA supports end user rate caps if reasonable and compensatory." We believe that this statement is a fair indication that the true crux of the debate on this issue was not rate caps per se, but rather the appropriate level of the caps from NPATS instruments.

FPTA's fundamental argument regarding the level of rate caps is the need for NPATS providers to be compensated for all revenue generating calls originating from their telephones. With respect to the current up to \$1.00 NPATS surcharge, FPTA asserts that it never wanted to charge higher rates than the LPATS but that the economics of their business, combined with certain regulatory restrictions, have precluded the elimination of the surcharge. FPTA proposed that the surcharge could be substantially reduced or even abolished if we were to approve their use of store and forward technology as discussed in Section III above. In the alternative, or additionally for those NPATS providers without store and forward capabilities, FPTA proposed that the LECs be required to compensate NPATS providers for all revenue generating calls handed off to the LECs in accordance with our traffic routing requirements. By approving both of these options, FPTA asserts, the Commission will assure that NPATS providers have access to the same sources of revenue as LPATS providers for these calls. According to FPTA's witness Cornell, this is one of the fundamental conditions necessary for effective competition in the pay telephone market.

While the positions advocated by FPTA possess a degree of logical appeal, they ignore certain underlying legal realities. First, NPATS are not guaranteed the opportunity to earn a reasonable return on their investment because they are not rate base regulated as the LECs are. NPATS can enter and exit the marketplace at will and are free to operate only in those areas they believe to be most profitable. Second, under our previous decisions which we reaffirmed in Section III above, NPATS are prohibited from competing for 0- and 0+ local and intraLATA traffic. Third, under the terms of the Modified Final Judgment and the Consent Decree, both Southern Bell and GTEFL are restricted from competing in the interLATA interstate and interLATA intrastate markets. Fourth, with our current rate caps, NPATS providers can

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add a surcharge to the price of calls from their phones while the LECs cannot.

Notwithstanding our dialing policy restrictions, we have previously expressed concern over the continuation of surcharges on calls from NPATS instruments. See Order No. 20610. Initially, the surcharge was established to compensate NPATS providers for their inability to collect revenue on cashless calls. As we stated in Order No. 20610, we believe this situation has been alleviated by the advent of the AOS industry. In addition to the ability to bill for interLATA coinless calls, AOS providers offer NPATS providers an additional source of revenue in the form of commission payments. On the basis of the evidence produced during this hearing, we reject the claim that NPATS providers cannot exist in the marketplace without favorable rate treatment. Our findings will be discussed more fully in the sections below pertaining to the rate caps for the various segments of the market, as well as in Section VIII of this Order.

A. IntraLATA Rate Cap

Currently the cap on end user charges for 1+, 0+, and 0- intraLATA toll calls placed from NPATS instruments is as follows:

1. 1+ intraLATA - the applicable ATT-C daytime rate, plus \$1.00 (*)
2. 0+ and 0- intraLATA - the applicable LEC time-of-day rate, plus operator/calling card charges, plus up to \$1.00 (**)

*Similar to an operator service charge.

Not the NPATS surcharge.

**NPATS surcharge.

As discussed below, we find it appropriate to change the cap on end user charges for 1+, 0+, and 0- intraLATA toll calls placed from NPATS instruments to the following levels:

1. 1+ intraLATA - the applicable LEC time-of-day rate, plus \$1.00

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2. 0+ and 0- intraLATA - the applicable LEC time-of-day rate, plus operator/calling card charges, plus a fixed rate of \$.25 ("set use" charge)

Additionally, we find it appropriate to require LPATS to apply the \$.25 fixed "set use" charge to 0+ and 0- intraLATA toll calls originated from their own telephones as well.

FPTA advocated that the LECs be required to compensate NPATS providers for 0+ and 0- intraLATA toll calls at the same level that the LECs pay their own location owners in commission payments. On the surface, this might appear to be a viable alternative to imposing a surcharge on end users. However, we believe that the end user is the cost-causer in terms of the investment in the payphone, as well as being the one who receives the benefit. The routing of this traffic to the LEC has virtually no direct cost to the NPATS provider; it is only an opportunity cost. Therefore, we do not believe that compensation from the LEC is the correct means of compensating the NPATS provider. We also believe that requiring such compensation would set a dangerous precedent for other LEC customers. We find that a call delivered to the LEC from an NPATS phone is no different than a call delivered to the LEC from large PBX users, hotels/motels, STS providers, or cellular carriers. We are not prepared to consider requiring the LECs to compensate such call aggregators.

All of the LECs have taken the position that direct compensation to the NPATS providers is inappropriate. GTEFL's witness James testified that the purpose of paying commissions is the same today as it was prior to competition. Commission payments are a proven method to provide incentives for the active participation of the premises owner in keeping the pay station clean, lighted, and working (by informing the LEC of problems). Southern Bell's witness Sims testified similarly. As she pointed out, NPATS providers are not similarly situated as to the LEC. We agree. While it is true that premises owners provide opportunities for access to the LEC network, the premises owners also provide space and perform services as well. Premises owners do these same things for NPATS providers. We believe that the main purpose of paying commissions is to secure locations.

Finally, a requirement that the LECs pay compensation for this traffic would amount to making the LECs pay for what we have

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previously determined should be reserved to them. Accordingly, we reject FPTA's proposal.

As we discussed in our introductory remarks to Section IV, we believe it is now appropriate to reduce the surcharge applied to NPATS calls. The circumstances in existence at the time the surcharge was adopted have changed. NPATS providers have been on notice for almost two years of our intention to closely scrutinize this issue at this time. Data provided by FPTA in response to various interrogatories fails to substantiate its claim that NPATS providers will be unable to exist in the marketplace with the reduction or elimination of the surcharge along with denial of the store and forward proposal. As to the number of intraLATA calls being routed to LECs, there were significant discrepancies between FPTA's responses to different interrogatories. Additionally, FPTA's response about the revenue impact of elimination of the surcharge was based upon revenue data for the year ending 1989. To conclude that reduction of the surcharge would reduce earnings based upon this data is incorrect. That is because the surcharge is a revenue enhancement and further, the surcharge did not begin until January 1, 1990. Prior to implementation of the surcharge, NPATS providers did not receive any revenue for these calls.

Accordingly, we find it appropriate to reduce the up to \$1.00 NPATS surcharge (currently being billed by the LECs at a fixed rate of \$.75) to \$.25, which we equate with a "set use" charge. We believe that this amount represents the opportunity cost of using the pay telephone. We base this on the amount charged for a local call from a pay telephone. Where an end user places a call from home, he has no additional cost over and above the basic local service rate. Since the NPATS provider pays a monthly bill to the LEC, the \$.25 paid by an end user represents the cost to the end user to use the pay telephone. We note that witness Hanft advocated a rate of \$.25 for 10XXX, 800, and 950 compensation in return for the revenue generating opportunity. Accordingly, for 0+ and 0- intraLATA toll calls placed from NPATS phones, the new capped rate shall be the LEC time-of-day rate, plus applicable operator/calling card charges, plus a fixed amount of \$.25.

As to the cap for 1+ intraLATA toll calls, we find it appropriate to change the capped rate to the LEC time-of-day rate, plus \$1.00. The \$1.00 charge added to these calls should not be confused with the NPATS surcharge. It is a payment for the operator-like functions that take place within the pay telephone.

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We believe that changing to the LEC time-of-day rate will correct two problems existing with the current capped rate due to the use of the ATT-C rate. First, in some mileage bands the NPATS provider is billed by the LEC at a higher rate than he is currently authorized to charge to the end user. Second, the end user will benefit from time-of-day discounts when using an NPATS instrument.

Finally, we address the issue of either allowing or requiring LPATS providers to add a surcharge to calls originating from their pay telephones. United proposed that the LECs be allowed to assess surcharges just like NPATS providers. Witness Hanft testified that charging higher rates than the LPATS for the same service puts NPATS at a severe marketing disadvantage. We believe there is value in establishing uniform rates for pay telephone service. We also believe it is appropriate to place the cost of the pay telephone instrument on the cost-causer, the end user. As we stated earlier, presently the cost of an 0+ intraLATA call is the same from an LPATS instrument or the end user's home. Requiring LPATS to add the \$.25 "set use" charge to 0+ and 0- intraLATA calls originated from their own pay telephones will place the cost squarely on the cost-causer, as well as help to alleviate the marketing disadvantage perceived by the NPATS providers. Accordingly, we find it appropriate to require the LECs to add a fixed rate \$.25 "set use" charge to these calls.

We note that the \$.25 "set use" charge is an amount to be added to an end user's bill for a revenue generating 0+ or 0- intraLATA toll call. It is not a separate amount to be deposited in order to use the pay telephone.

B. Local Rate Cap

Currently the cap on end user charges for local calls placed from NPATS instruments is as follows:

1. 0+ and 0- local - \$.25, plus operator/calling card charges
2. sent-paid local - up to \$.25 (*)

*LPATS are required to charge a fixed rate of \$.25

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As discussed below, we find it appropriate to change the cap on end user charges for local calls placed from NPATS instruments to the following levels:

1. 0+ and 0- local - \$.25, plus operator/calling card charges, plus a fixed rate of \$.25 ("set use" charge)
2. sent-paid local - up to \$.25 (unchanged)

Additionally, we find it appropriate to require LPATS to apply the \$.25 fixed "set use" charge to 0+ and 0- local calls originated from their own telephones as well.

Further, we find it appropriate to allow both NPATS and LPATS the ability to place a fifteen (15) minute time limit on all local calls originated from their pay telephones (both coin-in-box and 0+ and 0- local).

FPTA's position on the cap for 0+ and 0- local calls was virtually identical to its position on 0+ and 0- intraLATA toll calls. For the same reasons we discussed at length in Section IV-A above, we find it appropriate to reject FPTA's proposal that NPATS providers' be compensated by the LEC for 0+ and 0- local calls delivered to the LEC in accordance with our traffic routing requirements.

By Order No. 23046, issued June 7, 1990, we clarified that the NPATS surcharge was not to be applied to 0+ and 0- local calls originating from NPATS telephones. Thus, for these calls, the NPATS providers receive no revenue whatsoever.

In advocating the need of NPATS providers to be compensated for 0+ and 0- local calls, FPTA has stressed that it does not want to gouge customers or to even appear to be charging excessive rates for these calls. FPTA believes that applying the current up to \$1.00 NPATS surcharge would give just that result. We agree. For the reasons set forth in Section IV-A above, we find it appropriate to apply the \$.25 fixed rate "set use" charge to these calls as well. Again, we believe that this amount represents the opportunity cost of using the pay telephone and places the cost properly on the cost-causer.

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While we were not provided with data indicating the exact number of operator assisted local calls originated from NPATS phones, it does appear from the evidence that there is a significant volume of such traffic. Adding the "set use" charge to the rate cap for 0+ and 0- local calls will afford NPATS providers a substantial source of revenue that was not previously available. Accordingly, for 0+ and 0- local calls placed from NPATS phones, the new capped rate shall be \$.25, plus operator/calling card charges, plus a fixed amount of \$.25. Additionally, for the reasons discussed in Section IV-A above, we shall require the LPATS providers to add this charge to 0+ and 0- local calls originated from their own pay telephones as well.

We note that the \$.25 "set use" charge is an amount to be added to the end user's bill for a revenue generating 0+ or 0- local call. It is not a separate amount to be deposited in order to use the pay telephone.

For local calls (sent-paid or coin-in-box) we find it appropriate to retain the current NPATS rate cap of up to \$.25. The LPATS fixed rate of \$.25 for local calls remains in effect as well. However, we are convinced by the evidence produced in this matter that it is now appropriate to allow both NPATS and LPATS providers the ability to impose a time limit on all local calls originated from their pay telephones.

The measured usage rate structure presently in place for NPATS local calls requires that the NPATS provider pay to the LEC charges for local calls based upon the length of time the end user converses. This means that after a certain point, the NPATS provider pays the LEC more in usage charges than the \$.25 revenue which is received for the call. Between 11 and 12 minutes in the peak period, and between 23 and 24 minutes in the off-peak period, the usage costs begin to exceed the revenue received for a local call. A time limit on local calls would guard against excessively long calls which are net losers for NPATS providers. We see no need for a time limit on toll calls, since toll calls are charged to the end user on a per minute basis.

Our most important consideration in setting a reasonable time limit is the number of customers who would be adversely affected. Based upon data provided by FPTA and the LECs, the average length of a local call is somewhat less than three (3) minutes. Data provided by United indicates that in its territory, only about two

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percent (2%) of local calls exceed twelve (12) minutes. FPTA and LEC data also show that calls are split about evenly between peak and off-peak periods.

While few calls exceed twelve (12) minutes, some specific calls may continue for long periods of time, resulting in a loss to the NPATS provider on that particular call, as well as denying revenue opportunities from other potential users of the equipment. To the extent that we believe ubiquitous pay telephone service provides an important means of emergency communication, very few situations would arise whereby a reasonable time limit could have an adverse effect on the public. Accordingly, we find it appropriate to allow the option to impose a fifteen (15) minute time limit on local calls from both NPATS and LPATS instruments. We believe that fifteen (15) minutes is reasonable in light of the evidence reviewed and will be easy for consumers to remember. After the first fifteen (15) minutes expires, an additional \$.25 would be charged to the end user. This would be accomplished through an announcement to deposit another \$.25 for fifteen (15) additional minutes or the call will be disconnected.

C. InterLATA Rate Cap

Currently, the cap on end user charges for 1+, 0+, and 0- interLATA toll calls placed from NPATS instruments is as follows:

1. 1+ interLATA - the applicable ATT-C daytime rate, plus \$1.00 (*)
2. 0+ and 0- interLATA - the applicable ATT-C daytime rate, plus operator/calling card charges, plus up to \$1.00 (**)

*Similar to an operator service charge.

Not the NPATS surcharge.

**NPATS surcharge.

As discussed below, we find it appropriate to change the cap on the end user charges for 1+, 0+, and 0- interLATA toll calls placed from NPATS instruments to the following levels:

1. 1+ interLATA - the applicable ATT-C time-of-day rate, plus \$1.00

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2. 0+ and 0- interLATA - the applicable ATT-C time-of-day rate, plus operator/calling card charges, plus a fixed rate of \$.25 ("set use" charge)

Additionally, we find it appropriate to require LPATS to apply the \$.25 fixed "set use" charge to 0+ and 0- interLATA toll calls originated from their own telephones as well.

FPTA advocated that the IXCs be required to compensate NPATS providers for interLATA calls routed to them through 800, 950, and 10XXX access methods (so-called dial-around traffic.) NPATS providers already receive commission payments from the presubscribed IXC, but receive nothing when an end user accesses a carrier other than the one presubscribed to the particular pay telephone. FPTA's witness Hanft argued that the IXCs should pay direct compensation to the NPATS providers since the IXCs receive the bulk of the revenue generated from these calls. Hanft proposed a minimum level of compensation of \$.25 per access code call placed from an NPATS instrument. FPTA's witness Cornell further argued that our failure to require compensation from these IXCs constrains market forces because the NPATS provider cannot negotiate for commission payments due to our requirement of access to all locally available IXCs. Under this view, our mandatory access requirements remove any incentive for the IXCs to compensate for this traffic.

There is very little evidence on which to decide this question because this was not an identified issue in this proceeding, but rather a position taken by FPTA in discussing appropriate interLATA rate caps. ATT-C and ITI were the only IXCs that intervened in this docket. Neither company proffered a witness, but ATT-C did address the question in its post-hearing brief.

Not surprisingly, ATT-C does not favor compensation for dial-around traffic. We believe that their arguments on this question have significant merit. We strongly agree with ATT-C's position that compensation for dial-around traffic would negate the economic incentive for NPATS providers to offer end users the best possible service at the most economical rate through the presubscribed IXC. NPATS providers are the ones that decide which IXC to presubscribe their telephones to. If their primary consideration is the amount of revenue that particular IXC will pay to them, then rates charged to end users may be higher than those of an IXC paying lower

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commissions to NPATS providers. From a business standpoint, if an NPATS provider is experiencing a significant amount of dial-around traffic, it would seem to make economic sense for the NPATS provider to presubscribe its pay telephone to the IXC that is carrying the majority of the traffic.

Notwithstanding our view expressed above, we are not totally convinced that compensation from the IXCs would be inappropriate. However, the question has not been adequately addressed in this proceeding. The issue of interLATA rate caps was narrowly focused as to the level of rates charged to end users. There are over one hundred IXCs currently operating in Florida and they were not put on notice of an intent to consider this as an issue at this time in this proceeding. Coupled with the lack of evidence in the record, our only course can be to deny FPTA's proposal. We note ATT-C's comments regarding operational problems with implementing such a plan. We also note that such a compensation scheme could be seen as in conflict with the public interest aspect, as well as the new statutory requirement, of ensuring that end users have access to the IXC of their choice.

For the reasons set forth in Section IV-A above, we find it appropriate to reduce the up to \$1.00 NPATS surcharge to the \$.25 fixed rate "set use" charge for 0+ and 0- interLATA toll calls. We believe that there are sufficient revenue opportunities available to the NPATS providers without the need to assess the up to \$1.00 NPATS surcharge. As we discussed in our introductory remarks to Section IV, the AOS industry offers NPATS providers with a source of revenue that was not available at the time the NPATS surcharge was established. Additionally, as we discussed in Section III, deployment of store and forward technology for interLATA traffic has opened up a substantial revenue stream that was not previously available to NPATS providers. With store and forward, the end user's call is outpulsed as a 1+ call and carried by the presubscribed IXC. The NPATS provider can receive bulk discounts on 1+ traffic, as well as receive revenue from the operator assist charge for these calls. Data provided by FPTA in response to various interrogatories did not provide support for continuing the surcharge on 0+ and 0- interLATA calls. We also note that FPTA's proposed compensation level of \$.25 for dial-around traffic equates to a payment of \$.25 for the opportunity cost of using its instrument. We believe this lends further support to our choice of \$.25 as the appropriate level of the "set use" charge. Additionally, for the reasons set forth in Section IV-A above, we

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shall require the LPATS providers to add the \$.25 "set use" charge to 0+ and 0- interLATA calls originated from their own pay telephones as well.

We note that the \$.25 "set use" charge is an amount to be added to the end user's bill for a revenue generating 0+ or 0- interLATA call. It is not a separate amount to be deposited in order to use the telephone.

We also find it appropriate to change the capped rate for all interLATA calls (1+, 0+, and 0-) from the ATT-C daytime rate to the ATT-C time-of-day rate. FPTA's witness Hanft supported passing along time-of-day discounts, provided that both NPATS and LPATS would do the same. We agree. We are not aware of any IXC that does not offer time-of-day discounts. Accordingly, the ATT-C element of all interLATA rate caps shall be changed to the ATT-C time-of-day rate.

As to the cap for 1+ interLATA toll calls, we find the appropriate rate cap to be the ATT-C time-of-day rate, plus \$1.00. The \$1.00 charge added to these calls should not be confused with the NPATS surcharge. It is a payment for the operator-like functions that take place within the pay telephone. There was no evidence presented to indicate that the \$1.00 charge is excessive.

V. INTERCONNECTION STRUCTURE AND RATES

The current stipulated rate structure and level for interconnection of NPATS to the LEC network is set forth in Section I of this Order. The interconnection rate where local measuring and billing of usage is available consists of four elements: (1) a flat rate element; (2) an on-peak usage element; (3) an off-peak usage element; and (4) a minimum monthly charge. Where measuring and billing of usage is not available, a flat rate surrogate is applied.

As discussed below, we find the usage sensitive rate structure, the flat rate line charge, and the monthly minimum charge to be appropriate. Additionally, we find it appropriate to reduce both the on-peak and off-peak measured rate elements, as well as the amount of the flat rate surrogate. Accordingly, the rate structure and level for interconnection of NPATS to the LEC network shall be as follows:

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1. Flat rate line charge of 80% of the applicable B-1 rate
2. An on-peak measured rate element for local calls of \$.03 for the first minute of use and \$.015 for each additional minute of use
3. An off-peak measured rate element for local calls of \$.02 for the first minute of use and \$.01 for each additional minute of use
4. A monthly minimum charge of \$30.00 per line, including both flat rate and usage charges.
5. The flat rate surrogate where local measuring and billing are not available shall be \$50.00

The present rate structure was designed to capture both the non-traffic sensitive and the traffic sensitive costs inherent in the provision of access to and usage of the network. The flat rate element captures, in some sense, the non-traffic sensitive costs of access. The on-peak and off-peak usage elements capture the traffic sensitive nature of usage costs. The minimum monthly charge was designed to ensure that the LECs were not subsidizing the NPATS providers and to cover the costs of the loop in cases where there was little usage.

FPTA believes that the rate structure for NPATS interconnection should be a flat rate structure set at the B-1 level, at least at the Business/Hunt level. If a measured rate structure is retained, FPTA believes that the access line, screening, blocking, and touchtone rates should be set at cost with usage charges based upon cost plus approximately 10% contribution. FPTA bases its position on four underlying arguments: (1) that NPATS providers are victims of a LEC "price squeeze;" (2) that current rates are discriminatory and provide unfairly excessive contribution; (3) that current rates lack factual support; and (4) that current rates and practices adversely impact universal service.

A "price squeeze" was defined by FPTA's witness Cornell as follows:

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A price squeeze exists when the monopolist sets the price for its monopoly input and for the "competitive" downstream product in such a manner that dependent competitors that are just as efficient as the monopolist cannot charge the same price for the output that the monopolist charges and still cover all their costs due to the higher price that they must pay for the monopoly input.

Witness Cornell provided an attachment with her testimony which laid out the calculations necessary to establish whether a price squeeze exists and its magnitude if it does exist.

FPTA argues that the current rates lack factual support since they were not the result of an analysis which considered the costs which NPATS impose on the network. Rather, the rates were set "without any evidence as to traffic volumes or the LECs' cost of providing interconnection services." The rate reductions which followed arose from stipulations. The stipulated rates were negotiated settlements rather than the result of a cost analysis.

According to FPTA, universal service goals are adversely affected in three ways by the present rate structure. First, some end users may pay more for pay telephone service than is necessary. Second, whenever a LEC payphone is chosen over a nonLEC payphone, a smaller contribution is made to the rest of the revenue requirement, thus harming other local exchange ratepayers. Third, NPATS providers are constrained from competing effectively for moderate or low usage locations.

All of the LECs took the position that the current rate structure and rate levels should be continued. Their position is based primarily on the belief expressed by GTEFL's witness James that services provided by the LEC to an entity which makes a direct profit from resale "must be reflective of the underlying costs involved, and should be designed to produce additional revenues as additional costs are incurred." James further asserted that "The most appropriate structure would include a flat monthly charge to cover the cost of providing access to the switched network, plus measured rate charges to cover the traffic sensitive costs for use of the switched network."

GTEFL argues that the existing rate structure incorporates these criteria by employing a flat monthly charge plus measured

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rate charges, which have the effect of placing increased costs on the cost-causer. In Order No. 14132, according to GTEFL, we pointed out that we had previously expressed a preference that services which are resold be subject to usage sensitive rates. In particular, resale of WATS, MTS, and dial-it service was mentioned. GTEFL provides two other examples in which we have ordered usage sensitive rates since the issuance of Order No. 14132. Specifically, shared tenant service providers (Order No. 17111) and cellular carriers (Order No. 20554) pay usage sensitive rates.

In setting appropriate interconnection rates, we must consider several competing goals. We believe our primary goal in the regulation of PATS should be the widest possible provision of pay telephone service at a fair price and with a consistently high level of service. Our other goals include a move to a competitive marketplace where feasible, ensuring the viability of the LECs while not conferring upon them any undue advantage, and the maintenance of universal service.

FPTA's witness Cornell believes that our primary responsibility is to ensure that the PATS industry is as competitive as possible. If maximizing competition resulted in end users being made better off and the betterment of society as a whole, then perhaps we could agree. In our view, competition thus far has focused primarily on location owners and not end users. Further, as discussed below, all-out competition may have several adverse effects because of a potential market failure in the payphone industry.

We see pay telephone service as an extension of local service and a component of universal service. Pay telephone service has public good aspects and externalities such that a purely competitive pay telephone marketplace would not provide the desired number and distribution of payphones. There are numerous public good aspects of pay telephone service. First and foremost is the availability of ubiquitous telephone service in emergencies. The convenience of a wide distribution of pay telephones to persons away from home, especially business persons, is a public benefit. In both emergency and non-emergency situations there is a value, a peace of mind, in the knowledge that there is usually a phone nearby, no matter where in the state, or the country, one may travel. In addition, there are universal service aspects of pay telephone service for those who cannot afford residential service.

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In many instances, pay telephone service may be the only source of telephone service for some citizens.

Many pay telephones located in public buildings or on highways are not profitable. In most cases, they are provided in response to a request by some governmental agency. Such phones have generally been referred to in this docket as "public interest phones" and would surely not be available in a purely competitive pay telephone marketplace. Both the LECs and FPTA have agreed that one solution would be that "public interest" phones should remain in the rate base of the LECs regardless of the disposition of the other issues in this case. Alternatively, FPTA has suggested a sharing mechanism whereby LPATS and NPATS alike would provide such phones based on market share. A full discussion of public interest phones and their distribution may be found in Sections VIII and IX-D of this Order. The point here is that we are concerned that public interest phones would not be provided in a competitive marketplace without some regulatory intervention.

Pay telephone locations which are of medium or greater profitability are likely to be served regardless of the structure of the pay telephone marketplace. Whether served by LPATS or NPATS, separate subsidiary or not, the profit is great enough to spur the needed investment.

The class of pay telephone locations most dependent on the structure of the pay telephone marketplace is the class of marginal and low profitability locations. If LPATS were provided through separate subsidiaries competing against NPATS, few of these locations would be served. In a world where the risks of the pay telephone industry are borne by shareholders and entrepreneurs, only those pay telephone locations which are of medium profitability or greater would be served. Below some profit threshold, the several thousand dollar investment required for each location (equipment, maintenance, access, etc.) is not justifiable to shareholders or owners. Many alternative investments are available. If the return on certain locations is not great enough, the prudent businessman will invest elsewhere. If there were no public good aspects to pay telephone service, regulators would be little concerned about marginally profitable pay telephone locations. If the end user, PATS provider, and location owner were the only beneficiaries of pay telephone service, then only those locations which pay for themselves should be served. However, it is in society's interest to see that some additional locations are

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served. These locations may go beyond the "public interest" phones which are specifically requested by an agency. That such locations are not very profitable, yet cannot be explicitly identified as a "public interest" location does not imply that society as a whole, and the general body of LEC ratepayers are not better off when such locations are served. Such locations might include convenience stores in rural areas or certain roadside locations. What might not appear to be a "public interest" location by day may be a "public interest" location at night, when all nearby businesses are closed and telephones are otherwise unavailable. What might be described as the "cruel and calculating forces of the marketplace" would ensure that such locations would not be served if the purely competitive provision of pay telephone service were the rule.

Under traditional rate base regulation, both the marginally profitable and the unprofitable locations could be served. FPTA and the LECs agree that it would be in the general body of ratepayers' interest to subsidize the unprofitable defined "public interest" locations. They do not agree that the locations which are not specifically defined as public interest locations should be subsidized. However, both types of locations can be served without cross subsidies from other LEC services. The key is that the medium and greater profit locations earn a sufficient return to fund pay telephone service at the other locations. If the return on the higher profit pay telephones is not great enough to fund the lower and negative profit pay telephones, then some subsidy would be required. The point of contention would be whether those pay telephones not specifically identified as "public interest" pay telephones should be subsidized. We find that, with certain safeguards, they should. The benefit to the general body of ratepayers and society as a whole outweighs the costs.

If all-out competition in the pay telephone industry is not in the best interest of society as a whole and rate base regulation of LPATS must remain, the question then is what is the appropriate regulatory treatment of competitive pay telephone providers. FPTA believes that all-out competition is in society's best interest and that our primary goal should be to foster competition to the maximum extent possible. FPTA believes that the LPATS should impute to themselves the same tariffed rates as NPATS pay for bottleneck monopoly inputs. FPTA's witness Cornell developed her "price squeeze" analysis to show the "unfair competition" which NPATS face. If our primary goal in the regulation of pay telephone service was to maximize competition, then a price squeeze analysis

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would have some merit. Indeed, in the regulation of certain LEC services (e.g., cellular services) where maximum competition is a Commission goal, a price squeeze analysis could be very useful. However, pay telephone service differs from such services as cellular in that there is a market failure in the pay telephone industry. The market failure arises from the public good aspects, the externalities, of pay telephone service. We find that our goal should not be that of maximizing competition in an industry characterized by a market failure. Rather, we shall seek to enhance the public good aspects of pay telephone service. Enhancing the positive externalities can best be described as promoting the widest possible distribution of pay telephones at a fair price, which consistently meet our service standard.

We find a usage sensitive rate structure to be appropriate to recover the greater usage costs imposed on the network by NPATS. Average NPATS usage is two to four times greater per month than average B-1 usage. NPATS should have a different rate structure from residential or business users because NPATS are resellers of local service and use telephone service as an input in their business in a manner very different than other businesses. The key difference between NPATS and other business users is not the amount of usage but the way in which the service is used. With other businesses, telephone service is an adjunct. For NPATS, it is their business. We have previously expressed our intention that resellers be charged rates which are in line with the costs they impose on the network.

As to the level of rates, all parties agreed that the rates as presently structured cover costs and provide a contribution to LEC services. The cost study submitted by Southern Bell supports this conclusion.

As to whether the rates are excessive, we believe the burden is on FPTA to show evidence for this claim since we have previously approved the stipulated rate level. To some extent, however, FPTA is dependent upon the LECs for usage cost data. Only Southern Bell has provided such data. Because no other LEC submitted usage costs to justify an off-peak rate different than that of Southern Bell, we believe it is appropriate to use Southern Bell's data to set usage rates for all LECs capable measuring and billing. FPTA has not been able to show that the rates are excessive. Additionally, FPTA has provided no clear evidence of any benefit to end users of lowering the interconnection rates. The only evidence offered was

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vague assertions that more locations could be served; no quantifiable data was produced. While it was shown that the actual cost to the network of usage for Southern Bell was one-fourth and one-eighth of the peak and off-peak price for additional minutes, these rates are the same or less than those charged to STS and cellular providers. Centel and United charge \$.0405 and \$.0302 per minute for peak and off-peak cellular usage respectively. GTEFL charges \$.0380 and \$.0277 for peak and off-peak cellular usage. Southern Bell charges \$.0350 and \$.0247 for peak and off-peak cellular usage. STS rates for all four companies are \$.12 per message.

FPTA also claims that rates to end users would be lower if the rate structure and usage rates were changed. With perfect or even truly "effective" competition this might be true. But witness Cornell has herself stated that rate caps are necessary because of captive customers (such as airport users). From the end user's perspective, truly effective competition cannot exist in a market made up of transient and captive customers. If competition were truly effective, rate caps would be unnecessary.

As we stated previously, we find FPTA's "price squeeze" analysis to be an inappropriate tool for examining the pay telephone industry. Even so, we note with interest that NPATS are not under a "price squeeze" as defined by witness Cornell. According to her definition, the dependent competitor is only under a price squeeze if the competitor "cannot charge the same price for the output...and still cover all their costs." The evidence offered by FPTA shows that the largest competitors are presently profitable and as discussed in Section VIII, it is the large competitors (not the "mom and pop" operations) with which we are concerned. Moreover, the data offered by FPTA relates to 1989 - before we authorized intraLATA surcharges. Since these companies are profitable, they cannot by this definition be under a price squeeze.

Upon consideration, we find it appropriate to reduce both the on-peak and off-peak usage elements. At the new rate level, both elements will still recover costs and provide a reasonable amount of contribution to LEC services. We find the present level of both the flat rate line charge of 80% of the B-1 rate and the monthly minimum of \$30.00 per line to be appropriate in light of the cost data that has been produced.

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Finally, we find it appropriate to reduce the flat rate surrogate from its current level of \$65.00 per month to \$50.00 per month. As a surrogate for the measured rate, we believe it should be set at a level equivalent to an average of the measured rates paid by NPATS. Since Centel, GTEFL, and Southern Bell have no flat rated phones, their average usage rates should be excluded from any calculation. Therefore, an appropriate average is one derived from United's measured phones, since United is the only LEC to have both measured and flat rated phones in its territory. Since the services are equivalent, the rates should be as well.

The average rate charged by United to NPATS, including both usage rates and the flat rate portion (80% of the B-1 rate) is \$45.67. Since United's average rate is very close to \$50.00, in the interest of simplicity, we find it appropriate to set the flat rate surrogate at \$50.00. This represents a reduction of \$15.00 per flat rate NPATS line. The resulting negative revenue impact is very small.

VI. SCREENING AND BLOCKING

Billed number screening service was mentioned on a few occasions during the hearing, although this service was not at issue in this proceeding. Billed number screening prevents collect or third party billing calls from being billed to the NPATS line and is presently available from all LECs. NPATS providers are required to subscribe to this service.

The primary function of operator screening is to identify a pay telephone access line as such, and on any call involving an operator, the end office relays this identification to the operator. With the knowledge that the call is coming from a pay telephone, the operator will not place any sent paid-calls for end users. In effect, the operator screens and blocks any calls that would result in charges being billed to the originating pay telephone access line.

The inability of the serving end office to make the pay telephone identification and forward this information to the operator was quite prevalent in the early days of NPATS operation. This allowed fraudulent calls to be made easily. One reason for this deficiency was that NPATS providers were being serviced with a one-party business line which was not previously used for

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providing pay telephone service. Additionally, the operator screening function could not be provided from electromechanical end office switches (step-by-step and crossbar). Over the last six years, most of these deficient end offices have been replaced with digital or electronic stored program control equipment. This continuing shift to the latest switching technology has greatly reduced the number of locations where operator screening can not be provided.

Eleven of the thirteen LECs operating in Florida testified that operator screening was available now in their entire service area. Centel did not offer any evidence on this issue, but since all 46 of their end offices utilize stored program central office equipment (45 digital and 1 electronic), we conclude that there is no problem in Centel's service area. United, in response to an interrogatory, provided a list of 21 end offices where operator screening was not available. United's witness Reynolds testified that the company had recently found a work-around whereby ten of these switches could be modified to provide operator screening by September 30, 1990. Reynolds later testified that four other deficient switches were being replaced prior to December 30, 1990. This leaves a total of seven remaining deficient step-by-step end offices. Based upon this information, operator screening will be available to all NPATS providers in all areas of Florida by December 31, 1990, except for the seven step-by-step end offices identified by United.

Several methods have been proposed to provide operator screening for the NPATS served from these end offices during the interim period before the switches are replaced. FPTA's witness Hanft proposed that NPATS service be provided using the same "coin access line" that is used for LEC payphones. He further testified that FPTA is still working with the LECs to investigate the technical and economic issues involved in making the coin line service available to NPATS and LPATS alike.

Another method proposed by witness Hanft was to serve the NPATS with foreign exchange (FX) lines. United objected due to end user confusion and different local calling scopes of different exchanges. GTEFL stated that if FX lines are used, the NPATS should be charged FX rates. We agree with United on the FX issue; however, in multi-office exchanges, foreign central office (FCO) lines could be used to serve NPATS without the confusion and different calling scope problem. The only NPATS lines in the seven

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deficient end offices that would qualify for the FCO arrangement are the four served from Ocala-Highlands. Since this end office is scheduled for replacement in July, 1991, it may not be prudent to use the FCO method for four lines for only a few months and then revert back to normal service.

A third interim method being explored jointly by United and FPTA is the use of a pre-recorded voice message in the smart phones to audibly inform the operator that the call is coming from a pay telephone. This method is being trialed in the Clewiston exchange. Depending upon the results of this trial, this recorded message plan may be the best of the possible alternatives during the interim period of deficiency for the seven step-by-step offices discussed above.

No party has suggested that United be required to advance the equipment replacements at these seven locations and we agree. The total cost of replacing these end offices is estimated to be about \$15 million, spread over 1991, 1992, and 1993. We find that it is not in the best interest of United's general body of ratepayers to expend the capital dollars necessary to make central office replacements just to provide operator screening and blocking services. Accordingly, we find it appropriate to require the LECs to provide operator screening and blocking where technologically feasible with existing end office equipment. In those locations where the service cannot be provided in the normal manner, the LECs should, in the interim period until the switch is replaced, continue to work and negotiate with FPTA and the NPATS providers to provide the service by one of the alternate plans discussed above.

The purpose of central office blocking (COB) is to prevent certain types of calls from being originated from NPATS instruments. This service can include the blocking of all calls such as DDD (1+), international DDD (011+), DIAL IT (976), 900 service (1+900), etc.

The provision of central office blocking to NPATS has been handled on a LEC-specific basis, which has resulted in a variety of services being offered in the LECs' present tariffs. In most cases, central office blocking options are packaged with the operator screening service. For example, Southern Bell's tariff provides for six different options, one of which must be subscribed to by the NPATS provider. There are three basic service packages on a two-way basis, and three identical options on an outward-only

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basis for prisons, hospitals, etc. The three basic two-way service options offered by Southern Bell are as follows:

1. Operator Screening plus COB for 011+ calls.
(International DDD)
2. Operator Screening plus COB for 011+, 7 digit local, 1+DDD and 1+900 calls.
3. Operator Screening plus COB for 011+, 1+DDD and 1+900 calls.

The Southern Bell tariff states that NPATS are required to subscribe to one of the three options. The operator screening plus COB for 011+ calls, included in all three options, eliminates a substantial amount of the fraud. However, other types of calls such as 1+900, 1+976 and 976 calls that are billed to the originating line also subject the NPATS provider to fraud. Based on the service options above, 976 local calls cannot be blocked unless all local calls are blocked and 1+900 and 1+976 calls cannot be blocked unless all 1+ calls are also blocked. If NPATS providers subscribed to options 2 or 3 above, they would sacrifice all of their coin-in-the-box revenue. Therefore, service options two and three above do not appear to be viable options for the majority of the NPATS telephones. It appears that these options would appeal to only the NPATS using coinless phones that are to be used for 0+ and 0- calls only. This is supported by Southern Bell's interrogatory response which stated that of the 13,152 two-way NPATS telephones served by Southern Bell, only 662 have taken option 2 and only 177 have chosen option 3. The remaining 12,313 (93.6%) subscribe to option 1. Thus it appears that only COB for international DDD calls, which is required for all NPATS where available, is being offered to the large majority of NPATS providers. Both GTEFL's and United's responses revealed similar patterns. GTEFL's tariff offerings are similar to those of Southern Bell, while United's tariff does provide 1+900 and 976 blocking to NPATS where available as a service option separate from other screening and blocking. Centel's tariff also bundles 976 local blocking with blocking of all 7 digit calls, and blocking of 1+900 calls with blocking of all 1+DDD calls.

Based upon the above information, it is clear that NPATS providers are not subscribing to the LECs' offering of 1+900, 1+976, and 976 local blocking. It is also reasonable to assume

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that NPATS providers are not permitting these calls to be dialed from their phones. It is apparent, therefore, that NPATS providers are blocking these calls themselves in their smart phones. FPTA did not introduce any evidence to support this belief; however, witness Presson testified that the Intellicall phones could be programmed to block these calls.

FPTA strongly advocates requiring the LECs to furnish all necessary screening and blocking for the prevention of fraud. We agree. However, we do not believe the LECs should be required to incur the cost of replacing end office equipment just to provide these services. Accordingly, we find it appropriate to require all LECs to offer blocking of international DDD calls, 1+900, 1+976, and 976 local calling where technically feasible. Additionally, we find it appropriate to require the LECs to offer these blocking options on an unbundled basis.

Finally, we find that the rates currently charged for the various screening and blocking services are reasonable. Although the rates do include substantial contribution, we believe the level is appropriate for features such as these. In our recent decision in the information services docket, Docket No. 880423-TP, we found that basic service elements (BSEs) should be rated with significant contribution as are other custom calling features. We view these screening and blocking services in the same light. Accordingly, the rates shall remain at their current tariffed levels.

VII. CONFINEMENT FACILITIES

In addressing the issue of pay telephone service in penal institutions and hospitals for the mentally ill (confinement facilities), two sub-issues arise. The first question is whether different rate caps should apply to LPATS and NPATS in confinement facilities than apply at all other LPATS and NPATS locations. The second question is whether different operational terms and conditions should be developed for those LPATS and NPATS in confinement facilities.

Prior to this hearing, we have issued several orders addressing end user rate levels for pay telephone service by NPATS providers in confinement facilities. For interLATA calls, we approved a rate cap consisting of the ATT-C time-of-day rate plus operator charges. We directed that the NPATS surcharge would not be applied to these calls because inmates were restricted to the

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presubscribed IXC of the NPATS provider. See, e.g., Order No. 23506. The issue of NPATS providers handling intraLATA calls in confinement facilities was deferred to this docket, see Order No. 23019, although we determined that the NPATS surcharge would not be assessed on these calls either.

FPTA has advocated the use of store and forward technology to provide enhanced service in confinement facilities. FPTA's witness Fedor testified that store and forward technology reduces the risk of fraud through various functions such as the blocking of calls to witnesses, judges, and the like. Also, operator-assisted calls could be priced at or below the dominant carrier's rates. FPTA argues that in order for this scenario to exist, NPATS providers must have the ability to process and bill all types of traffic, including local, intraLATA, and interLATA calls. FPTA adds that the LEC would retain the transmission on calls processed through store-and-forward technology and would be compensated through billing, collection, and validation functions on all of these calls. Additionally, the LEC would be spared the network time necessary to set up a collect call, the expense of a live operator, possible operator harassment and fraud investigation. If however, NPATS providers are denied handling of local and intraLATA operator-assisted calls, FPTA indicates that fair compensation should be provided for those calls which are routed to the local exchange company.

Our decision on store and forward technology is discussed at length in Section III of this Order. For the reasons set forth therein, we find that NPATS providers shall not be granted an exception from that ruling for their operations in confinement facilities. All of the considerations that entered into our general decision on this matter apply with equal force here. No evidence was introduced to justify a different result merely because the instrument is installed in a confinement facility.

As to the level of rates to be charged to end users in confinement facilities, we find that our general NPATS rate caps set forth in Section IV of this Order are appropriate. Previously, we had set different rate caps for confinement facilities due to the lack of choice by end users. Because rates are now capped at the same level for NPATS and LPATS providers, there is no longer any reason to impose different caps for confinement facilities.

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Phone Control Security, Inc. (PCSI) submitted a proposal to provide pay telephone service to prisons utilizing its smart phone that employs a debit card. The phone operates strictly on a 1+ basis. The inmate purchases the card through a commissary account. The card is then inserted into the pay telephone which provides a screen readout of the cost of the call and the amount of credit left on the inmate's card. The debit card eliminates the need for an operator because no 0+ or 0- calls can be made. Additionally, the inmate purchases the card himself and the cost of the calls are not borne by the prison administration or the general public. If the inmate has exhausted his card fund he would have to purchase another card at the commissary. However, according to witness Abrams, PCSI issues a certain number of debit cards to the prison for the use of indigent prisoners.

PCSI proposes to provide this service for \$1.00, which represents a 20% discount from the current \$1.25 cost of an 0+ local call. PCSI indicates that it cannot economically operate in Florida for less than the \$1.00 amount, given the fact that it will be serving county jails, whose inmates primarily make local calls.

We believe that the use of the debit card would eliminate many of the fraud problems that have surrounded the issue of pay telephone service in confinement facilities. Harassment of operators is eliminated and the costs are incurred by the prisoner himself. The debit card phone has the ability to block phone numbers as well as provide readouts of the numbers that have been called. This phone can perform many of the functions that the store and forward technology smart phones can perform. Accordingly, we find it appropriate to approve the request by PCSI to charge \$1.00 for local calls initiated from its debit card payphones installed in confinement facilities. Any other debit card phones located outside of confinement facilities are subject to the general rate caps discussed in Section IV of this Order.

To date, we have approved waivers of Rule 25-24.515(3), (4), and (6), Florida Administrative Code, for purposes of providing pay telephone service to penal institutions for seven NPATS providers. These NPATS providers are SouthernNet Services, Inc. (December 1988), Phone Control Security, Inc. (April 1989), Communications Central, Inc. (June 1989), Peoples Telephone Company (January 1990), Aqua-Com-Co., Inc. (January 1990), Adler Communications, Inc., (April 1990), and Altus Technologies, Inc. (July 1990). Rule 25-24.515(3), (4), and (6) provides in pertinent part:

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(3) Each pay telephone station shall permit access to the universal telephone number of "911" where operable, without requiring the use of a coin, paper money or a credit card. Where such number is not operable, the station shall permit access to a local exchange company toll operator under the same conditions.

(4) Each telephone station shall, without charge, permit access to local directory assistance and the telephone number of any person responsible for repairs or refunds but may provide access by coin return. Any long distance directory assistance charges applied to the pay telephone service company may be passed on to the customer.

(6) Each telephone station which provides access to any interexchange company must provide access to all locally available interexchange companies.

Currently, the restrictions imposed by the LECs on pay telephone service in prisons consist of the following:

Southern Bell	Supervised areas: 1+/0+/0- can be made. Incoming calls are allowed.
	Unsupervised areas: Only 0+ calls can be made. No time limit on calls.
United	0-/00 collect only calls can be made. There is no time limit placed on calls.
GTEFL	0+/0- collect only calls can be made. There is no time limit placed on calls.
ALLTEL	0+ operator-assisted calls are made.
Northeast	0+ operator-assisted calls are made.
Indiantown	0- collect calling only. There is no time limit placed on calls.
St. Joseph	Makes no distinction between those and any other company provided pay telephone location.

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The restrictions currently imposed by the LECs on pay telephone service in hospitals for the mentally ill include the following:

Southern Bell	Supervised areas: 1+/0+/0- calls may be placed and incoming calls are allowed. Unsupervised areas: 0+ collect only calls can be placed and there is no time limit on calls.
GTEFL	Patients can place any kind of sent paid, collect, third party, and calling card call. This includes 1+, 0+, and 0-calls.
United	Makes no distinction between those and any other company provided pay phone location.

The current operating restrictions imposed by the LECs in both types of confinement facilities appear to be reasonable and adequate to handle the legitimate needs of the administrators of these facilities. We also believe that the restrictions we have been authorizing for NPATS providers through rule waivers are reasonable and appropriate. Based upon the evidence provided, we find that certain restrictions to pay telephone service should be routinely allowed when specifically requested by the administration of a confinement facility. For NPATS providers, the appropriate restrictions are as follows:

- A. NPATS providers may deny access to 911 and 411 calls.
- B. NPATS providers may deny access to all locally available interexchange carriers.
- C. A limited time duration of fifteen (15) minutes may be placed on all calls. However, notice of disconnect must be made prior to termination of call.
- D. NPATS providers who wish to utilize the debit card phone in confinement facilities may charge no more than \$1.00 for local calls.

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Any other debit card phone located outside of confinement facilities is required to charge \$.25 for a local call.

- E. Prison waivers should continue to be handled on case-by-case basis, if additional restrictions beyond those specified above are requested by the facility administrator.

For LPATS providers, the appropriate restrictions are the same as those listed above for NPATS providers.

In order to authorize the NPATS restrictions on an industry-wide basis, an amendment of our rules will be necessary. Accordingly, our staff is hereby directed to initiate such a proceeding after closure of this docket.

VII. COSTS AND REVENUES

By Order No. 20610 we directed both LPATS and NPATS to submit for our review cost data relative to the provision of pay telephone service. It was our belief that a review of this information would be the best way for us to evaluate the various claims that have been made by parties to this docket. For example, FPTA has claimed that without favorable rate treatment, NPATS would be unable to exist in the marketplace. FPTA has also alleged that LEC payphone revenues fail to cover the costs of providing this service.

We received a variety of data from the LECs relative to their provision of pay telephone service. Southern Bell provided several analyses performed specifically for this docket utilizing cost studies developed for other purposes. United provided a service accounting study which had previously been performed for all of its services. GTEFL supplied cost and revenue figures. Southern Bell, United, and GTEFL all proffered witnesses on this subject. Florala, Gulf, Northeast, Quincy, St. Joseph, and Vista-United also provided cost and revenue figures. Neither ALLTEL, Centel, nor Indiantown filed any data regarding the costs or revenues of their pay telephone service. Additionally, we heard extensive testimony and cross-examination on this subject during the hearing.

FPTA argues that how the LECs are permitted to operate and account for their own pay telephone operations is an issue of critical concern to them because it affects the long term existence

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of payphone competition in the state. FPTA further asserts that if LPATS costs exceed revenues, there is an anti-competitive "price squeeze" to the detriment of competitors, as well as the general body of ratepayers. In addition to attacking the various LEC analyses, FPTA offered its own witness and its own analyses. One FPTA analysis was witness Cornell's price squeeze analysis which we discussed extensively in Section V of this Order in conjunction with the structure and level of interconnection rates. The second analysis is a spreadsheet which was used during FPTA's cross-examination of Southern Bell's witness Dick. This spreadsheet utilizes Southern Bell data and extrapolates from that data to hypothesize the effect of replacing Southern Bell pay telephones with NPATS instruments.

We have considered the arguments advanced by each of the parties and examined all of the analyses that have been submitted. It is apparent to us that FPTA has misinterpreted our concerns and the analysis which is required in order to appropriately respond to this issue. Throughout all of FPTA's spreadsheet analysis and arguments one dominant theme appears - LEC tariffed rates should be imputed to the cost of the LEC pay telephone service. We believe that such an imputation is inappropriate.

In considering FPTA's spreadsheet analysis, we note that the LECs have questioned a number of the underlying assumptions. Our view goes beyond this, however, as we question the very premise of this exhibit. The primary flaw of the underlying premise of NPATS' replacement of LPATS pay telephones is that an NPATS provider is purely a competitive, for profit company. Its singular purpose is to maximize shareholder wealth through the provision of pay telephones. A LEC, on the other hand, is a hybrid type of firm. On the one hand, the company has shareholders and must invest prudently to meet its shareholder obligations. On the other hand, the LEC has substantial public interest concerns, which are overseen by various regulatory bodies.

In the pay telephone market an NPATS firm can only be expected to seek out the most profitable locations for placement of pay telephones. The LECs, however, must place pay telephones with more than profit in mind. Both as an extension of universal service and out of its obligation to serve the communities in which it operates, LECs must place substantial numbers of phones which may be of marginal or even negative profitability. For example, estimates of the number of purely public interest pay telephones

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range from 10% to 25% of Southern Bell's pay telephones. The percentages may be even higher for the LECs which serve more rural territories. Public interest phones are discussed more extensively further in this analysis. In addition, they were discussed briefly in Section V and are discussed extensively in Section IX-D of this Order.

The point, however, in regard to FPTA's spreadsheet, is that an NPATS firm could never be expected to replace all LPATS pay telephone locations, notwithstanding claims to the contrary. Similarly, a separate subsidiary for LPATS would have the same goals as an NPATS provider. Namely, a drive to seek out the most profitable locations, leaving the less profitable locations unserved. Pay telephone service has several public good aspects which have previously been discussed. We believe that the existing arrangement is the best method by which to maximize the public benefits of pay telephone service.

We note that arguments similar to those of FPTA have previously been raised before us. In regards to LEC toll facilities, various competitors have argued that the LEC would be better off by removing itself from the carrying of toll traffic and by collecting access charges only. Here, FPTA argues that the LECs would be better off turning over all facilities and locations to NPATS providers. We have rejected those arguments previously and shall do so here as well.

We have, however, previously expressed concern about the rates LECs charge for monopoly services which are necessary to the provision of competitive services when the LECs themselves provide a competing service. We have ordered, for such services, that the rates charged by the LECs for the retail competitive service cover the tariffed rates for the wholesale service. For example, we have determined that MTS rates must cover access charges in the aggregate.

A separate issue is whether the LECs' retail services must be provided through a separate subsidiary which pays the tariffed rates for interconnection. We believe that FPTA has confused our concern over LEC retail services with our concern over whether LPATS are either profitable or are subsidized by the general body of ratepayers.

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Several differences are evident between services such as MTS, where the LECs have some discretion in pricing, and LPATS, where local rates have always been set by this Commission. Specifically, the \$.25 price for local pay telephone calls was set by this Commission in Order No. 14132, prior to the advent of competition in the pay telephone market. When the \$.25 rate was set for local calls, it was set as a statewide average which was designed to cover the majority of actual LEC costs in providing pay telephone service but was not designed to cover tariffed rates. LPATS have never had the opportunity to set rates to cover imputed tariffed rates.

Even beyond this distinction, however, is the distinction between two separate issues: whether a service is subsidized by the general body of ratepayers or whether a service is provided on the basis of a "level playing field." Our concern in this issue is whether LPATS services are subsidized by the general body of ratepayers. FPTA, however, seems to imply in much of their testimony that if tariffed rates are not covered by revenues, a subsidy is flowing from the general body of ratepayers to LPATS. We disagree with this characterization. The measure of a subsidy, by definition, should be based upon actual costs, not imputed costs. FPTA claims that the LECs, by not covering tariffed rates, subject LEC ratepayers to lost revenue. Even assuming this were true, such a loss is an opportunity cost, and it would not be appropriate to include such a cost in a test for subsidies.

We also reiterate our view, expressed in Section V, and reasserted here, that pay telephone service has a substantial public good aspect which is subject to a market failure. Strict equality in rates, terms, and conditions for LPATS and NPATS (as opposed to limited competition) in such a market would not be in the public interest. Specifically, the market failure comes about in respect to public interest phones and low or marginally profitable phones.

In examining LEC pay telephone costs and revenues, it becomes clear that the issue of so-called "public-interest" phones must be explored. The LECs note that such phones produce little revenue while imposing substantial costs. Public interest phones are generally considered to be those which are placed on public property at the request of governmental or civic authorities. Further discussion of public interest pay telephones may be found in Section IX-D of this Order. There is a significant public good

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aspect in the provision of these phones, although they are not normally expected to produce a profit. As part of the overall pay telephone operations of the LECs, such phones are supported by the profits (if any) of those pay telephone operations. However, even in the absence of such profits, it is reasonable that the general body of ratepayers support the provision of such phones. Likewise, if LEC pay telephones were provided through a separate subsidiary, or if the LECs were foreclosed from participation in the competitive pay telephone market, it would be reasonable that public interest phones be funded by the general body of ratepayers because of their public good aspects.

GTEFL, Southern Bell, and United appear, from the information provided, to be profiting from their deployment of pay telephones. Our decisions in Section IV of this Order, to apply to \$.25 "set use" charge to calls from LPATS instruments, will increase LEC revenues while having little effect on costs. Our decision to allow a time limit on local calls will have a similar effect. Overall, then, profits should increase and pay telephone service provided by the LECs should make an even greater contribution to the general body of ratepayers.

Costs appear to exceed revenues for each of the small LECs; however, we believe that this is because there is a greater proportion of public interest phones in the relatively more rural territories served by the small LECs. Accordingly, we find because of the public good aspects of the provision of pay telephone service, that it is appropriate at this time that the general body of ratepayers of the small LECs fund the provision of pay telephone service, to the extent that revenues do not cover their costs.

We turn our discussion now to the subject of costs and revenues of NPATS providers. It is FPTA's position that NPATS providers cannot compete effectively and earn a fair return under the present regulatory scheme. As we explained in Section V of this Order, NPATS providers are not guaranteed the opportunity to earn a reasonable return on their investment because they are not rate base regulated. NPATS providers can enter and exit the market at will and are free to operate only in those areas perceived to be most profitable. Further, profitability can depend upon many factors other than costs and revenues, such as management expertise and other intangible factors. Having said this, however, an examination of the data which has been provided shows that the large NPATS firms are earning profits which seem quite healthy.

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Furthermore, some young companies which are not yet profitable seem poised to achieve profitability upon attaining the size necessary to compete in this market.

We have been provided with income and expense statements for several companies. Profitability seems to vary, especially because some of the companies are subchapter S corporations. In a subchapter S corporation, the profits and losses flow directly through to the shareholders. This means that very high salaries to officer/shareholders can lower booked profits, while in reality, the officer/shareholders are just as well or better off than if the company showed a higher profit level. In particular, one company booked only a small profit in 1989. At the same time, the company paid what appears to be extremely high salaries to officers of the corporation. Fully 42% of the firm's overhead expenses went to officer salaries, and total salaries (officers plus employees) equalled 60% of overhead expenses. By contrast, other firms averaged 30% to 36% in total salaries. Thus, while booked profit was low, officer/shareholder compensation was very high. All in all, large companies seem to be competing effectively with the LECs in the competitive pay telephone market, as measured by their ability to earn a profit.

Fifteen members of FPTA provided data regarding profitability. Of these fifteen members, seven show a profit in 1989, while eight show losses in 1989. The profit picture since that time should have improved because surcharges were authorized as of January 1, 1990. The addition of surcharge revenues without additional costs should improve profits for most NPATS providers.

In general, there are two types of NPATS providers. The "mom and pop" provider can be defined as one who provides pay telephones merely as an adjunct to his own business, usually a retail outlet of some sort. Restaurants, laundromats, small groceries, and gas stations are all examples of the type of business in which the owner may decide to purchase and operate his own pay telephone. The other type of NPATS provider is one whose business operation is solely or primarily devoted to the ownership, installation, and maintenance of pay telephones at the businesses of others. Such providers are referred to as "large companies" in our discussion. Our focus in this docket is only on the large companies, since only they have the ability to significantly compete with the LECs for the provision of pay telephones. Moreover, we believe that the majority of small NPATS providers have no intention of "competing"

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with the LECs but again, own their phones as an adjunct to their primary business. FPTA essentially agrees.

Our analysis of NPATS cost data leads us to conclude that some firms are profitable and others are not, regardless of the level of costs attributable to telephone access and usage costs. The telephone access and line costs are relatively stable across firms. The difference in whether or not a firm is profitable lies in the firm's other costs and expenses, particularly administrative costs and salaries.

The revenues which NPATS receive may be broken into nine basic categories: local coin in the box; intraLATA surcharges; interLATA intrastate surcharges; interstate surcharges; interstate store and forward revenue; AOS commission payments; IXC commission payments; advertising; and miscellaneous income. Not all NPATS providers receive revenues in all of these categories. Although breakdowns of NPATS revenues into each of the categories described above was not available, five firms reported usable data as to the sources of their revenue. Since surcharge revenues have only been available since January 1, 1990, we did not include surcharge revenues in our consideration.

The breakdown between coin revenue and commission revenue is surprisingly stable across firms. Four of the five firms report that coin revenues account for sixty to sixty-five percent of their total revenue, while AOS and IXC commissions range between thirty-five and forty percent of their total revenues. It is unclear why the percentages for one firm do not lie within this range.

It must be noted that FPTA is comprised of approximately thirty members which represent approximately four percent of the issued PATS certificates and approximately forty percent of the NPATS access lines in Florida. No other NPATS providers intervened in this docket. At least one former member of the FPTA, U.S. Communications, is among the larger NPATS providers in Florida. Witness Hanft testified that U.S. Communications operates between 700 and 1,000 pay telephones. He further testified that about ten of the larger NPATS providers aren't in the association. If, as the FPTA sought in this docket, interconnection rates were lowered, then without question, all NPATS providers in Florida would benefit from lower costs. It is unclear, however, why no other NPATS providers have felt compelled to intervene in this docket. While many certificated providers operate only a few phones, others, such

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as U.S. Communications, are among the larger providers operating in Florida. The perceived lack of interest in this docket on the part of nonmembers of FPTA could stem from lack of knowledge of the proceeding. On the other hand, two other possibilities exist: that providers are unable to afford the costs of intervention, or, more likely, that NPATS providers are satisfied with the terms under which they presently operate.

Seventeen members of FPTA provided information on the number of their pay telephones from 1986 through 1990. FPTA's witness Hanft additionally testified to the number of phones in operation for two other NPATS providers. GTEFL, Southern Bell, and United each provided data on the number of NPATS access lines in their territories for calendar years 1988 and 1989, and for the first quarter of 1990. Clearly, NPATS providers have enjoyed tremendous growth in the number of access lines in place in the five years in which competition has been allowed in the pay telephone market. Whether measured on a per company basis or for the NPATS industry as a whole, the number of NPATS access lines has increased significantly every year since 1986.

We conclude that large NPATS providers have ample opportunity to profit under the existing regulatory scheme. These large companies are generally profitable and some are very profitable. These companies offer a significant degree of competition to the LECs in certain locations. The claim that NPATS providers cannot survive in the present environment appears to be without merit.

IX. MISCELLANEOUS ISSUES

A. Participation in Optional EAS Plans

Traditional extended area service (EAS) was created to provide specific exchanges, which had an established community of interest with another contiguous exchange, some form of toll relief. It is a rate structure plan that provides discounted calling between exchanges that have a community of interest. Community of interest is generally determined by the calling volumes between the exchanges. This arrangement provides for nonoptional, unlimited, flat rate, two-way calling between two or more exchanges. When determining whether an exchange meets the calling criteria, pay telephones (LPATS and NPATS) are excluded. Only residential, business, and Foreign Exchange (FX) lines are considered, pursuant to Rule 25-4.060, Florida Administrative Code.

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One of the variations of traditional EAS is the Quincy to Tallahassee nonoptional EAS plan. This plan provides for five free calls per access line and \$.25 for each additional call. Because this is nonoptional EAS, LPATS and NPATS are included. However, we have ordered that pay telephones not receive the five free calls. The Quincy plan is no different from two-way flat rate nonoptional EAS insofar as pay telephones are considered.

Optional EAS was created for areas that exhibited high toll usage to another exchange but did not meet the requirements as set forth in Rule 25-4.060 to qualify for nonoptional EAS. These options vary in design as well as cost depending on selection, location, and the LEC. Some nonoptional EAS plans are exchange-specific. For example, in United's tariff a one-party residential customer can order flat rate EAS from Bonita Springs to Fort Myers for \$6.47, to Naples for \$6.47, and to Naples/Fort Myers for \$12.61. In Southern Bell's tariff there are three basic Optional EAS (OEAS) plans and four plans available to residential subscribers under Enhanced Optional EAS (EOEAS). Business customers can subscribe to all of the EOEAS options except one.

There are various toll discount plans in effect such as Valu-Pak Service, which is an optional service available to all individual residence subscribers and dormitory service subscribers on which the calling number is automatically identified. The service allows placement of DDD intraLATA intrastate toll calls within certain specified hours at an additional 50% discount from the rate charge.

Some of the LECs offer another toll discount plan known as Toll-Pac. This plan allows toll calls to be placed to specific nearby communities with a 30% discount from the DDD rate. Most of the LECs' tariffs restrict LPATS/NPATS, hotels and motels, and FX services from participating. While Southern Bell and United do not list a specific restriction to hotels and motels in their tariffs, they do state it is available only to individual line business and residential subscribers which leads us to conclude it is not available to hotels/motels because these entities are usually served through PBX trunks.

Southern Bell has recently tariffed a new offering called Saver*Service. This service is a set of specifically designed Toll Optional Calling Plans applicable to intrastate long distance calls originated and terminated in the customer's home LATA. Resale and

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shared use of Saver*Service is specifically permitted. Saver*Service is different from the other toll discount plans such as Toll-Pac and Valu-Pac because the plan is not the result of a consumer request and subsequent order for toll relief. Saver*Service is offered by Southern Bell under its tariff for resale and is not dependent upon the prequalifications that are required for EAS. In our view, the existence of toll monopoly areas gives the LECs the right to determine whether they will offer discounted intraLATA toll to resellers.

The tariff language regarding optional EAS and toll discount plans specifically states that options are not for resale by LPATS or NPATS. These options were not designed or intended for resale, but were created to provide toll relief to established end users in specific areas that have exhibited high toll usage. The rate structure would be extremely difficult to modify for an LPATS/NPATS phone due to the way the rate is applied. In addition, there is no guarantee that the savings will be passed on to the end user. The same holds true for other optional toll discount plans such as Valu-Pac and Toll-Pac which provide the subscriber with additional discounts on toll to specific areas.

All of the participating LECs, except GTEFL, oppose NPATS' participation in optional EAS plans. While GTEFL did not oppose such participation, GTEFL did express concern with the appropriate certification of NPATS providers if allowed to resell such plans.

FPTA's witness Cornell believes that any calling plans made available to subscribers of B-1 service should also be available to NPATS providers at the same prices, terms, and conditions. Witness Cornell contends that the intelligence in an NPATS payphone is sufficient to take into account these lower rates and pass them on to end users. Cornell does agree that in the current market situation, it is possible that NPATS providers would not immediately pass on the cost savings. But if LPATS and NPATS face the same cost, witness Cornell's position is that the cost savings from these plans will and should be passed on to the end users.

We agree with Southern Bell, United, and the small LECs that NPATS providers should not be allowed to participate in OEAS and EOEAS. We believe it would be difficult, if not impossible, to convert the current rate structure appropriately for LPATS or NPATS. We disagree with FPTA's position that NPATS should be allowed to participate in these optional EAS plans. Even though

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witnesses Cornell and Hanft believe the savings will ultimately be passed on to the end user, FPTA's witnesses were unable to give concrete examples of how savings would be passed on to end users under the different plans. Although we disagree with GTEFL that some other type of certification would be required, the question is moot because we have determined that participation of NPATS providers in optional EAS plans is not appropriate.

We find that the purpose of optional EAS is to provide toll relief to customers residing in specific areas that exhibit a high calling rate between communities of interest. Our intent in authorizing these plans was that the services not be resold. We find that excluding NPATS providers from these plans is consistent with the treatment of other resellers. End users of pay telephones, as a whole, represent a different set of callers than those who subscribe to optional EAS plans. A caller at a payphone is making an individual call for a particular requirement. Subscribers to optional EAS plans are those individuals who have an on-going need for a large amount of calling to a particular area. Accordingly, we shall not authorize NPATS providers to participate in optional EAS and toll discount plans such as Toll-Pac and Valu-Pac.

B. Incremental Billing for Usage

All of the LECs currently have the technical capability to record usage in one second increments or less. They also have the capability to bill in increments smaller than a minute, although the size of the smallest billing increment varies amongst the LECs. Southern Bell, GTEFL, and United all currently bill in six second increments or less, although United did not change to this system until after the hearing was concluded.

Southern Bell and United agree with the six second increments imposed by Order No. 20129, while GTEFL advocates billing based upon the actual number of seconds of conversation time. Southern Bell and United also promote the retention of the initial minute per call. Southern Bell's witness Sims contends that the initial minute rate structure was designed to pick up the cost for set-up of the call, which is a large portion of the cost of placing a call. Witness Sims further states that Southern Bell bills the full initial minute regardless of whether the call is a minute or less, although each additional minute is billed in six second increments. Witness Scobie for GTEFL indicated that the company

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only bills actual usage (no initial minute set-up). Scobie asserts that local usage is captured based on the actual number of seconds of conversation time. This usage is aggregated on a time-of-day billing period basis and the total is rounded to the nearest minute once at bill preparation time prior to rating.

FPTA's witness Cornell advocates the billing of usage in the smallest increment technically feasible. Cornell states that rates should be cost-based to the fullest extent possible and usage rates should be based on the smallest time increment technically feasible in order to best approximate actual costs. She further asserts that this enables price to track costs and helps to contribute to the ability of the payphone provider to lower prices to end users. FPTA's witness Hanft testified similarly.

As regards the small LECs, who have few or no NPATS providers located in their territory, we do not find it appropriate that they be required to bill in six second increments or less. All of the small LECs, with the exception of Northeast, are flat rated and currently do not bill usage. Due to the small penetration of NPATS in the small LECs' territories, we do not believe the cost of modifying their existing billing systems would be prudent. Accordingly, these companies shall be allowed to continue billing as they are now.

For the four largest LECs we find it appropriate to require that they bill NPATS providers in the smallest billing increment now available to each of them (Centel - actual usage, GTEFL - actual usage, Southern Bell - 1/10 second, and United - 1/10 second). The total minutes of use shall be rounded once to the nearest minute at the end of each billing period. We also find it appropriate to allow each LEC to choose whether to use the initial minute setup in their billing scheme. Finally, as stated earlier, the small LECs shall be allowed to continue billing in one minute increments.

C. Other LEC Charges to NPATS

The small LECs provide a variety of operator services and directory assistance (DA) service to NPATS providers by contracting with one of the larger LECs (primarily Southern Bell). The larger LEC charges the small LEC for the various operator services on a contract basis. At issue is whether the small LEC can pass along the charges for specific services to NPATS providers. Beyond the

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question of passing along the charges from the small LEC to the NPATS providers, the addition of a handling charge and reasonable return are at issue. For DA service, the question of whether charges can be passed along to the NPATS providers applies to the larger LECs as well, because the LECs are not presently allowed to charge either the NPATS provider or the end user for DA service. NPATS providers are also proscribed from charging the end user for DA service.

The small LECs have taken the position that they should be allowed to pass on all third party charges to NPATS providers, with the exception of DA charges. Southern Bell argues that the larger LEC providing service to the smaller LEC should be allowed to recover its costs from the smaller LEC. Southern Bell points out that services such as DA and 911 are provided to the small LECs for use by more than just the NPATS providers. These services are provided for use by all of the subscribers of the small LEC. Southern Bell advocates that the small LECs should be allowed to recover their costs from those subscribers which directly benefit from the provision of a service. It is unclear to us whether "subscribers" means the specific customers subscribing to a particular service or the general body of ratepayers in the case of service like DA or 911.

Centel is the only other LEC providing the services in question to the small LECs; however, Centel did not take a position on this issue. Neither GTEFL nor United provide such services to smaller LECs. However, United argues that NPATS services are duplicative and competitive and that therefore, any direct costs caused by the NPATS should be borne by them, rather than the general body of ratepayers.

FPTA asserts that there should be a logic and consistency in charges between LECs, just as there is between LECs and NPATS providers. FPTA further argues that the transactional LEC-to-LEC purchase price should not control the payphone provider's price in the absence of other public interest factors, including the final rate to the end user. FPTA's argument is that because competitive pay telephones make an overall contribution to meeting universal service goals, any additional charges placed on NPATS providers would be inappropriate. FPTA also notes that Chapter 364, Florida Statutes, effective October 1, 1990, precludes charges to end users or to NPATS providers for local DA service.

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When examining DA, it is important to consider who benefits from its availability, particularly, DA service from a pay telephone (local DA only). Three parties may be identified who benefit from the availability of DA service from a pay telephone. They are the pay telephone provider, the end user, and the person or business whose number is sought. The pay telephone provider benefits because the end user, after determining the telephone number to be called, will generally use the pay telephone instrument to complete the call, depositing \$.25. The end user benefits if the desired number is available as the call can then be made. Finally, the called party benefits from the wider dissemination of telephone numbers as a greater number of calls can then be received.

For the most part, the use of DA service is considered an alternative to physically looking up a number in a directory. The exception is those numbers, such as new listings, which are not in any given directory. Several witnesses testified to the difficulty of keeping directories in place at pay telephone locations. Among the reasons offered were vandalism and inclement weather. While it is the responsibility of pay telephone providers to make a directory available at their pay telephone stations, it is not always possible. Even for those providers which make the most gallant efforts to keep directories in place, a time lag can be expected between when a directory is stolen or vandalized, and when it can be replaced. Thus, although it is a Commission requirement that directories be made available at pay telephone stations, there are instances when DA is the only choice for an end user who seeks a telephone number. In the ideal world, end users would always have a directory available and would never need DA service except for new numbers. Although the end user does benefit from the availability of DA service, the service is not an option when a directory is unavailable. For these reasons, we find it inappropriate to charge end users for DA service. Our general public interest concerns expressed in Order No. 14132 exist today with equal force. Accordingly, we shall not change this policy.

Next, we consider the question of the various operator services. Small LECs provide services such as call blocking, call screening, and message recording by contracting with a larger LEC. At present, only Northeast and St. Joseph charge NPATS providers for the provision of these services. The five small LECs who contract with Southern Bell for operator services were not charged for call blocking and screening by Southern Bell prior to January

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1, 1990. Since that time, Southern Bell has included the tariffed charge for these services in its contracts with the small LECs. We do not know whether Centel includes an explicit charge for these services in its contracts.

As in the provision of DA service, there is more than one beneficiary of call blocking and screening. The primary beneficiary is the NPATS provider. The secondary beneficiary is the general body of ratepayers. Order No. 20610 requires that NPATS providers subscribe to call blocking and billed number screening. Prior to the issuance of that Order, each NPATS provider had a choice of whether to subscribe to such services. Screening and blocking were discussed extensively in Section VI of this Order. Although NPATS providers are the primary beneficiaries of these services, fraud prevention benefits the general body of ratepayers as well. NPATS providers are responsible for fraudulent calls billed back to their access lines. However, in instances of very high fraud loss, the LEC often ends up writing off at least a portion of the bill. Thus, prevention of fraud is also in the interest of the general body of ratepayers. Further, even where the NPATS provider absorbs the full loss, this increases his costs and creates upward pressure on NPATS' rates.

We find that because the primary beneficiary of screening and blocking services is the NPATS provider, it is appropriate that he should pay for such services. Our ruling here applies only to those small LECs that do not currently have a tariffed charge for these services. The large LECs, Northeast, and St. Joseph already have tariffed rates for these services in place and charge NPATS providers pursuant to those tariffs. Accordingly, the remaining LECs shall now tariff these services and begin charging NPATS providers for these services.

D. Public Interest Payphones

We strongly believe that pay telephone service is an important component of our goal of promoting universal telephone service. Our earlier discussions in this Order should make this concept quite clear. A separate question in this proceeding was whether and to what extent the responsibility for public interest payphones should be allocated between NPATS and LPATS providers.

Southern Bell, GTEFL, and United all defined public interest pay telephones, in general, as pay telephones that meet public

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convenience and safety needs. These pay telephones are generally installed at the request of governmental or civic groups rather than commercial interests. Public interest pay telephones usually exist at the following types of locations:

1. Governmental buildings
2. Multi-family and special use housing communities
3. City sidewalks
4. Leisure/Recreational/Entertainment facilities
5. Highways
6. Educational facilities
7. Health care facilities

Of course, this listing is not meant to be exhaustive. We find this listing useful for definitional purposes, if we exclude: (1) all payphones installed as the result of a franchise agreement with a governmental unit; (2) all payphones for which commission payments are made; and (3) all payphones that are part of a bank of two or more pay telephones. In our view, public interest payphones are those telephones that serve public needs on a non-commercial basis.

In reviewing the data that was submitted regarding the number of LPATS public interest payphones, it becomes evident that there is no clear information available in the record upon which to determine the exact number or location of public interest payphones, or the circumstances surrounding their installation.

United's witness Reynolds testified that as a result of competition in the pay telephone market, United has lost some high volume locations that helped to subsidize the low volume public interest pay telephones. He further testified that the low volume locations have become more of a burden on the company's pay telephone operation. As a result, United may have to become more restrictive in the placement of public interest pay telephones. GTEFL also took the same position on how competition in the pay telephone market may affect its installation of public interest pay telephones.

FPTA's witness Hanft testified that the FPTA members are willing to help serve their fair share of public interest locations. However, he recommends that we establish clear criteria through a rulemaking proceeding. This, according to Hanft, would

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enable us to receive the widest possible input from the public and the industry.

The small LECs have asserted that we should change the rule requiring the LEC to provide at least one pay telephone per exchange. The small LECs have requested that Rule 25-4.076(1), Florida Administrative Code, be changed to require that each exchange must be served by either an LPATS or NPATS pay telephone. The small LECs have requested this because there are some exchanges that cannot support more than one or two pay telephones. Witness Eudy cited two examples - the LPATS pay telephones in both Raiford and Orange Springs have been replaced by NPATS providers. As a result, there is no other place for ALLTEL to install a pay telephone.

As for the other LECs, there does not appear to be a demand for changing the handling of public interest pay telephones. Witness Reynolds testified that the decision to serve low volume locations should be left to the LPATS and NPATS providers. Witness James also supports not having an arbitrary allocation of public interest pay telephones between LECs and NPATS providers. He suggests that we allow for the deaveraging of prices at pay telephone locations.

We agree with United and GTEFL that the decision to serve low volume public interest locations should be left to the LECs. As to witness James' suggestion, we believe that our approval of the \$.25 "set use" charge will help to defray the expense of public interest pay telephones. While we recognize the small LECs' dilemma, we do not believe that Rule 25-4.076(1) should be amended. Amending the rule could lead to situations where the LEC would simply choose not to serve a particular exchange. We note, however, that a waiver of this requirement could be requested by any LEC with a genuine need for relief.

We are not aware of any unmet public demand for pay telephone service nor has there been any evidence to suggest that the LECs are not providing adequate pay telephone service to public interest locations. Accordingly, we shall not impose any special requirements for the handling of public interest payphones at this time.

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X. IMPLEMENTATION SCHEDULE

Our decisions in Section III of this Order require no special implementation schedule.

Our decisions in Section IV of this Order shall be implemented as follows. All LECs shall file appropriate tariff revisions to reflect billing and collection of the new \$.25 "set use" charge simultaneously with elimination of the up to \$1.00 NPATS surcharge. The cost of billing and collection of the "set use" charge for NPATS providers is considered as part of the interconnection rates; therefore, no additional charge applies to this service. These tariffs shall be filed within thirty (30) days of the issuance date of the reconsideration order in this docket, to be effective ninety (90) days after the issuance date of the reconsideration order. For the \$.25 "set use" charge applied to LPATS phones, the LECs shall file a report within sixty (60) days of the issuance date of the reconsideration order in this docket. This report shall show the revenue impact of applying the \$.25 "set use" charge to calls originating from LPATS instruments and shall include a proposed offset to these revenues. The LECs shall also file tariffs reflecting these changes within thirty (30) days of the issuance date of the reconsideration order, to be effective ninety (90) days after the issuance date of the reconsideration order and concurrent with the offsets. Our staff shall file a recommendation regarding the proposed revenue offsets prior to the effective date of these tariffs. For the time limit on local calls, both LPATS and NPATS must provide appropriate signage on the pay telephone indicating the time limit. This signage shall be completed within ninety (90) days of the issuance date of the reconsideration order in this docket.

Our decisions in Section V of this Order shall be implemented as follows. All LECs shall file appropriate tariff revisions reflecting the new interconnection rates within thirty (30) days of the issuance date of the reconsideration order in this docket, to be effective ninety (90) days after the issuance date of the reconsideration order.

Our decisions in Section VI of this Order shall be implemented as follows. All LECs with tariffs where 900/976 blocking are bundled with other blocking services shall file tariff revisions to unbundle 900/976 blocking. These tariffs shall be filed within thirty (30) days of the issuance date of the

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reconsideration order in this docket, to be effective ninety (90) days after the issuance date of the reconsideration order. The requirement that NPATS providers subscribe to operator screening, billed number screening, and central office blocking of international DDD (011+) where available requires no separate implementation schedule.

Our decisions in Section VII of this Order shall be implemented as follows. Our staff shall initiate a rule amendment proceeding as soon as practicable following the closure of this docket. All LECs must tariff all existing arrangements with confinement facilities no later than thirty (30) days after the issuance date of the reconsideration order in this docket. Our decision authorizing NPATS providers to charge \$1.00 for local calls in confinement facilities where a debit card telephone is utilized requires no separate implementation schedule.

Our decisions in Section VIII of this Order require no special implementation schedule.

Our decisions in Section IX of this Order shall be implemented as follows. Appropriate tariffs to implement our decisions in Section IX-C shall be filed by the affected LECs within thirty (30) days of the issuance date of the reconsideration order in this docket, to be effective within ninety (90) days after the issuance date of the reconsideration order. None of our other decisions in Section IX require a special implementation schedule.

XI. DISPOSITION OF MOTIONS

On June 21, 1990, a Motion for Extension of Time to File Responses was filed by ALLTEL, Florala, Gulf, Indiantown, Northeast, Quincy, St. Joseph, Southland, and Vista-United. On August 1, 1990, we ruled that this Motion was moot.

On June 28, 1990, a Petition for Reconsideration of Order No. 23076 was filed by Florala, Gulf, Indiantown, Northeast, and St. Joseph. FPTA filed its Response to the Petition on July 10, 1990. On August 1, 1990, we denied this Petition.

On July 6, 1990, Intellicall filed a Motion to Compel Discovery from GTEFL. GTEFL filed its Response to Intellicall's Motion on July 18, 1990. On August 1, 1990, we denied Intellicall's Motion.

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On August 1, 1990, ATT-C moved to strike a portion of the testimony of FPTA's witness Jeffrey Hanft. ATT-C requested that we strike Hanft's direct testimony from Page 23, Line 8 through Page 24, Line 11 on the grounds that the testimony was not responsive to any identified issue in the proceeding. We denied ATT-C's motion to strike for two reasons. First, we believed that the testimony did fairly relate to at least one identified issue. Second, we believed that too much time had elapsed since the pre-filing of the testimony to now raise such an objection.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each and every finding set forth herein is approved in every respect. It is further

ORDERED that the proposal to authorize nonLEC PATS providers to handle 0+ local and 0+ intraLATA traffic through the use of store and forward technology shall be rejected for the reasons set forth herein. It is further

ORDERED that nonLEC PATS providers who utilize store and forward technology to process interLATA calls shall be required to comply with all the same terms and conditions as any other alternative operator services provider for those calls as set forth herein. It is further

ORDERED that end user rate caps shall continue to be utilized in the pay telephone market for the reasons set forth herein. It is further

ORDERED that the rate cap on end user charges for 1+ intraLATA toll calls from nonLEC pay telephones shall be the applicable LEC time-of-day rate, plus \$1.00. It is further

ORDERED that the rate cap on end user charges for 0+ and 0-intraLATA toll calls from nonLEC pay telephones shall be the applicable LEC time-of-day rate, plus operator/calling card charges, plus a fixed amount of \$.25. It is further

ORDERED that the rate cap on end user charges for 0+ and 0-local calls from nonLEC pay telephones shall be \$.25, plus operator/calling card charges, plus a fixed amount of \$.25. It is further

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ORDERED that the rate cap on end user charges for sent-paid local calls from nonLEC pay telephones shall remain at up to \$.25. It is further

ORDERED that the rate cap on end user charges for 1+ interLATA toll calls from nonLEC pay telephones shall be the ATT-C time-of-day rate, plus \$1.00. It is further

ORDERED that the rate cap on end user charges for 0+ and 0- interLATA toll calls from nonLEC pay telephones shall be the ATT-C time-of-day rate, plus operator/calling card charges, plus a fixed amount of \$.25. It is further

ORDERED that local exchange companies shall apply the \$.25 "set use" charge to calls originating from their own pay telephones in all circumstances where the charge applies to nonLEC pay telephones. It is further

ORDERED that local exchange companies and nonLEC PATS providers shall have the option to impose a time limit on local sent-paid calls in accordance with the requirements set forth herein. It is further

ORDERED that the proposal to require local exchange companies to compensate nonLEC PATS providers for 0+ and 0- intraLATA toll traffic initiated from nonLEC pay telephones shall be rejected for the reasons set forth herein. It is further

ORDERED that the proposal to require interexchange carriers to compensate nonLEC PATS providers for calls routed to the interexchange carriers from nonLEC pay telephones through 800, 950, and 10XXX access methods shall be rejected for the reasons set forth herein. It is further

ORDERED that the rate structure and level for interconnection of nonLEC PATS providers to the local exchange company network shall be modified in accordance with the provisions set forth herein. It is further

ORDERED that the local exchange companies shall provide operator screening and blocking to nonLEC PATS providers where technologically feasible with existing end office equipment as set forth herein. It is further

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ORDERED that local exchange companies shall offer central office blocking on an unbundled basis to nonLEC PATS providers as set forth herein. It is further

ORDERED that the proposal by Phone Control Security, Inc. to charge \$1.00 for local calls initiated from its debit card telephones in confinement facilities shall be granted in accordance with the terms and conditions set forth herein. It is further

ORDERED that an appropriate rule amendment proceeding shall be commenced in order to authorize implementation of appropriate restrictions by nonLEC PATS providers when serving confinement facilities, without the necessity of requesting a rule waiver on every case. It is further

ORDERED that the proposal to allow nonLEC PATS providers to participate in local exchange company optional extended area service and toll discount plans shall be rejected for the reasons set forth herein. It is further

ORDERED that Central Telephone Company of Florida, GTE Florida, Incorporated, Southern Bell Telephone and Telegraph Company, and United Telephone Company of Florida shall bill nonLEC PATS providers in the smallest billing increment presently available to each of them in accordance with the terms and conditions set forth herein. It is further

ORDERED that the handling of public interest pay telephones shall not be changed at the present time for the reasons set forth herein. It is further

ORDERED that tariffs implementing our decisions herein shall be filed as set forth in the body of this Order.

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By ORDER of the Florida Public Service Commission, this
14th day of FEBRUARY, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

by: Kay Flynn
Chief, Bureau of Records

ABG

Commissioner Gunter dissented from the decision to allow a time limit on local calls.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of

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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 after the issuance 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.