State of Florida

Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: 09/10/98

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

FROM: DIVISION OF COMMUNICATIONS (YAMBOR)
DIVISION OF LEGAL SERVICES (COX)

RE: DOCKET NO. 980602-TC - TELEQUIP LABS.INC.- PETITION FOR WAIVER OF RULES AND REQUIREMENTS PROHIBITING PROVISION OF 0+ LOCAL AND 0+ INTRALATA CALLS FROM STORE-AND-FORWARD PAY TELEPHONES LOCATED IN CONFINEMENT INSTITUTIONS

AGENDA: 09/22/98 - REGULAR AGENDA -PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: STATUTORY DEADLINE 7/29/98-WAIVED BY PETITIONER

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\980602TC.RCM

CASE BACKGROUND

Telequip Labs, Inc. (Telequip) was granted pay telephone certificate No. 5869, on July 14, 1998.

Telequip is a newly certificated company and plans to install pay telephones through RFP's for various city, county and state agencies to serve inmate population needs.

On April 30, 1998, Telequip filed a Petition for a waiver of those rules and policies currently prohibiting it from providing 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement facilities. (Attachment A, pp 5-8) On August 25, 1998, Telequip filed an amendment to its waiver petition. (Attachment B, pp 9-10) In this amendment, the petitioner waived the 90 day statutory deadline for the Commission's decision on the petition.

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

DISCUSSION OF ISSUES

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

RECOMMENDATION: Yes. (Yambor)

STAFF ANALYSIS: On June 11, 1996, the Commission granted the same exemption to two other pay telephone providers Global Tel*Link Order No. PSC-96-0867-FOF-TC and T-Netix, Order No. PSC-96-0868-FOF-TP. Also, on July 30, 1996, the Commission granted the same exemption to Ameritel in Order No. PSC-96-1063-FOF-TC. The reasons for granting those exemptions are the same as in this case and are outlined below.

Staff believes it is in the public interest to allow Telequip to handle and bill 0+ local and intraLATA calls placed from confinement facilities. Telequip has stated in its petition that it will not charge more than the incumbent LEC for these calls.

HISTORY OF THE POLICY

The policy of reserving 0+local and 0+intraLATA calls for the serving local exchange company (LEC) has been in effect since pay telephone service first became competitive in Florida in 1985. This policy was reaffirmed in Orders Nos. 16343, 20489, 21614, 22243, and 24101. The policy evolved to address the needs of the public and the newly developing pay telephone and operator service companies and protect LEC revenues in an environment of rate of return regulation.

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

interexchange carriers (IXCs) to compete with LECs for 1+ and 0+ intraLATA toll traffic for the first time. 0+local traffic is still reserved for the LECs. The Commission ordered large LECs to implement intraLATA presubscription throughout their service areas by December 31, 1997. The Commission allowed small LECs to delay implementation until they received a bona fide request.

CHANGING THE POLICY FOR CONFINEMENT FACILITIES

For security reasons, pay telephones in confinement facilities generally only complete collect local and long distance calls to be made. Commission Rule 25-24.515(15), Florida Administrative Code, exempts pay telephones located in confinement facilities from certain notice and access requirements. For example, pay telephones located in confinement facilities may block access to other long distance carriers to minimize inmates' contact with a live operators.

Telequip has asked the Commission to allow it to handle and bill both 0+ local and 0+ intraLATA calls at its pay telephones located in confinement facilities. In support of its petition, Telequip points to the statutory amendments opening local service to competition, the Commission order on intraLATA presubscription, and the company's capability to handle such traffic as reasons the Commission need no longer reserve such traffic for the LEC. The petition also states that the store and forward technology Telequip presently uses to handle and bill interLATA calls in confinement facilities will provide the same benefits to the institutions, the company, and the end-users that the LEC would provide. These benefits are: elimination of operator abuse by inmates, reduction of fraudulent calling, and rates that will not exceed those charged by the serving LEC for the same call.

Accordingly, the Commission should grant Telequip an exemption from this rule so that it may handle 0+ local and 0+ intraLATA traffic in confinement facilities.

There seems to be no compelling reason to continue the prohibition against pay telephone providers in confinement facilities handling local and intraLATA calls on a collect basis since Florida Statutes have been amended to permit competition for local telephone service, and the Commission has been instructed to encourage such competition. Section 364.01(4)(e), Florida Statutes, instructs the Commission to "Encourage all providers of telecommunications services to introduce new or experimental telecommunications services free of unnecessary regulatory

restraints." Section 364.01(4)(f), Florida Statutes instructs the Commission to "Eliminate any rules and/or regulations which will delay or impair the transition to competition." Thus, granting the waiver would serve the purposes of the underlying statute, as required by Section 120.542, Florida Statutes.

Through its petition and amendment, Telequip has demonstrated that allowing it to handle local and intraLATA 0+ calls from confinement facilities will facilitate competition and relieve substantial economic hardship; thus the company can more effectively compete with the LEC for those sites where the traffic is predominately local and intraLATA. Telequip is capable of providing 0+ local and 0+ intraLATA service immediately as the technology is already in place within the pay telephone. Staff believes Telequip's petition to handle 0+ local and intraLATA calls from confinement facilities should be granted as it has met the requirements of Section 120.542, Florida Statutes.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action. A protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent Telequip from carrying this traffic in a non-protesting LEC's territory. (COX)

STAFF ANALYSIS: This docket should be closed unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the Proposed Agency Action.

The Commission has approved similar requests from Global Tel*Link, T-Netix and Ameritel. Those decisions were protested by two of the rate of return regulated LECs. Staff does not believe Telequip should be prohibited from carrying this traffic in a LEC's territory if that LEC does not protest the Commission's action. Accordingly, a protest filed by a local exchange company shall be applicable only to that local exchange company's territory and shall not prevent Telequip from carrying this traffic in a non-protesting LEC's territory.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for waiver of rules and requirements prohibiting provision of 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement institutions by Telequip Labs, Inc.	)	Docket No. _____

PETITION FOR WAIVER

Pursuant to Commission Rule 25-24.505(3), Florida Administrative Code, Telequip Labs, Inc. ("Telequip") petitions the Florida Public Service Commission ("Commission") for a waiver of those rules and requirements prohibiting Telequip from providing 0+ local and 0+ intraLATA calls using store-and-forward pay telephones located in confinement institutions within the state of Florida. In support of its petition, Telequip states:

1. Petitioner's name and address are:

   Telequip Labs, Inc.
   1820 North Greenville Ave.
   Richardson, Texas 75081
   Telephone: (972) 437-3800
   Facsimile: (972) 437-2001

2. All notices, orders or documents regarding this petition should be directed to:

Suzanne Rettew Director of Business Development Telequip Labs, Inc. 1820 North Greenville Ave. Richardson, Texas 75081 Telephone: (972) 437-3800 Facsimile: (972) 437-2001	and	Hal Stringer Consultant to Telequip Labs, Inc. Technologies Management, Inc. P.O. Drawer 200 Winter Park, FL 32790-0200 Telephone: (407) 740-8575 Facsimile: (407) 740-0613

3. Telequip is incorporated under the laws of the State of Nevada. Telequip filed concurrent with this petition, an application for Certificate to Provide Pay Telephone Service with the Commission. At this time, the company does not provide service within the State of Florida.

4. Telequip proposes in its application for a Certificate to Provide Pay Telephone Service to offer telecommunications services to inmates of confinement institutions within the state of Florida similar to services it currently offers in other jurisdictions. The Company installs sophisticated premises equipment in confinement institutions that permits inmates to make outgoing, collect-only calls without the assistance of a live operator. The company's services are provided through telephone instruments connected to a centralized call processing unit with store-and-forward capability.

Through this equipment, the company provides a number of controls and restrictions that serve to reduce or eliminate fraudulent use of telephone services. These restrictions also provide the confinement institution with increased control over the use of the telecommunications services used by inmates of the institution.

5. Telequip seeks waivers of Rules 25-24.515(7) and 25-24.620(2)(c) and (d). These rules prohibit Telequip from providing and billing for 0+ local and 0+ intraLATA calls placed by inmates of confinement institutions. Specifically, Telequip seeks authority to provide and bill for 0+ local and intraLATA calls placed by inmates using its store-and-forward pay telephones. Telequip believes that the benefits afforded to confinement institutions and the general public, such as call screening and blocking, currently proposed with its interLATA service will be enhanced if Telequip is allowed to handled 0+ local and 0+ intraLATA calls as well.

6. Waivers requested by Telequip are similar to those already granted by the Commission to other pay telephone providers including Ameritel Pay Phones, Inc.[1], ATN, Inc.[2], Global Tel*Link[3], InVision Telecom, Inc.[4], and T-Netix, Inc.[5] In its orders granting waivers similar to those requested by Telequip, the Commission recognized that no reason could be found to prevent NPATS from carrying 0+ local and 0+ intraLATA calls. In addition, the Commission found that allowing NPATS to carry such calls is a step toward a more competitive market place.

7. Should these waivers be granted, Telequip agrees to charge no more than the serving local exchange carrier for local and intraLATA 0+ calls placed from confinement institutions.

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[1] In Re: Petition for waiver of Rules 25-24.620(2)(c) and (d) and 25-24.515(7), F.A.C., by Ameritel Pay Phones, Inc., Docket No. 960570-TC, Order No. PSC-96-1063-FOF-TC, Issued August 20, 1996.

[2] In Re: Request for waiver of rules and policies which prohibit provision of 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement facilities, by ATN, Inc., Docket No. 960603-TC, Order No. PSC-96-1062-FOF-TC, Issued August 20, 1996.

[3] In Re: Petition for waiver of rules and policies to permit provision of 0+ local and 0+ intraLATA utilizing store and forward technology at pay telephones located in correctional institutions and other confinement facilities, by Global Tel*Link Corporation, Docket No. 951198-TC, Order No. PSC-96-0867-FOF-TC, Issued July 2, 1996.

[4] In Re: Petition for waiver of requirement prohibiting provision of 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement facilities, by InVision Telecom, Inc., Docket No. 960407-TC, Order No. PSC-96-1009-FOF-TC, Issued August 7, 1996.

[5] In Re: Petition for waiver of Rule 25-24.515 (7), F.A.C., and Rule 25-24.620(2)(c) and (d), F.A.C., regarding 0+ local and 0+ intraLATA traffic, by T-Netix, Inc., Docket No. 95-1456-TP, Order No. PSC-96-0868-FOF-TP, Issued July 2, 1996.

WHEREFORE, Telequip Labs, Inc. respectfully requests, subject to approval of its application for certification, that it be granted a waiver of the applicable rules, orders and policies currently prohibiting it from providing and billing for 0+ local and 0+ intraLATA calls made from store-and-forward pay telephones located in confinement institutions, and for such other relief as may be appropriate.

Respectfully submitted this 27 day of April, 1998.

Jim Burton
Telequip Labs, Inc.
1820 North Greenville Ave.
Richardson, Texas 75081

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for waiver of rules and requirements prohibiting provision of 0+ local and 0+ intraLATA calls from store-and-forward pay telephones located in confinement institutions by Telequip Labs, Inc.	)	Docket No. 980602-TC

AMENDMENT TO PETITION FOR WAIVER

Pursuant to Commission Rule 25-24.505(3), Florida Administrative Code, Telequip Labs, Inc. ("Telequip") filed a petition on April 29, 1998 with the Florida Public Service Commission ("Commission") requesting a waiver of those rules and requirements prohibiting Telequip from providing 0+ local and 0+ intraLATA calls using store-and-forward pay telephones located in confinement institutions within the state of Florida. Telequip files this amendment to supplement its petition with information required by Florida Statute 120.542 and to request an extension of the ninety (90) day time period for processing of the instant petition.

Telequip believes that it will suffer a substantial hardship due to a significant loss of fraud control if the Company is forced to route 0+ local and 0+ intraLATA calls to the LEC. Telequip believes that its store-and-forward technology is well suited to the provision of inmate service because it provides a number of controls and restrictions that serve to reduce or eliminate fraudulent use of pay telephone services. In addition, the Company's service eliminates the opportunity for an inmate to harass a live operator.

Telequip further believes that it will suffer a substantial hardship and be force to forgo substantial amounts of revenue if it is forced to route 0+ local and 0+ intraLATA calls to the LEC.

Telequip further believes that not granting the requested waivers would violate principles of fairness as numerous competitors to Telequip have been granted such waivers in the past by the Commission. Granting Telequip the requested waiver would insure that Telequip is on an equal footing with its competitors when proposing service to inmate facilities.

WHEREFORE, Telequip Labs, Inc. respectfully requests, subject to approval of its application for certification, that it be granted a waiver of the applicable rules, orders and policies currently prohibiting it from providing and billing for 0+ local and 0+ intraLATA calls made from store-and-forward pay telephones located in confinement institutions, an extension of the ninety (90) day approval period prescribed by Florida Statute 120.542(2) for processing of this waiver request, and for such other relief as may be appropriate.

Respectfully submitted this 25th day of August, 1998.

Hal Stringer
Consultant to Telequip Labs, Inc.
210 North Park Avenue
Winter Park, FL 32789