

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint Petition of Quincy )	DOCKET NO. 900801-TL
Telephone Company and St. Joseph )	ORDER NO. 24274
Telephone and Telegraph Company )	ISSUED: 3/22/91
for a Declaratory Statement )	
regarding the effect of Orders )	
No. 22367 and No. 22810. )	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman  
 J. TERRY DEASON  
 GERALD L. GUNTER  
 MICHAEL WILSON

ORDER GRANTING PETITION FOR DECLARATORY STATEMENT

BY THE COMMISSION:

Background

In their petition dated September 28, 1990, Quincy Telephone Company (Quincy) and St. Joseph Telephone and Telegraph Company (St. Joe) have requested that we address two issues: First, whether they may provide private line-type services (private line and special access) over the facilities they have put in for the Gadsden County/Tallahassee extended area service (EAS) route (Docket No. 890292-TL). Second, how such traffic, if permitted, would be classified--local, interexchange, or special access.

Except as to EAS, this is the first time we have addressed the issue of whether a local exchange company not bound by the restrictions of the modified final judgment (MFJ) may provide interLATA service. For the purposes of this Declaratory Statement, we will confine our answer to the specific facts and circumstances surrounding this request.

Two events have happened or will happen which have prompted the Petition. First, Centel, Quincy and St. Joe have put in fiber optic facilities to handle the increased traffic to and from the Gadsden County exchanges and Tallahassee. As a result of the economies of fiber, there exists capacity to handle other types of traffic as well. Second, AT&T-C, which is the primary long distance company offering dedicated service from Gadsden County, is moving its Special Access point of presence (POP) from Quincy to Panama City. The combination of these two facts creates the situation to which St. Joe and Quincy are responding.

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The petitioners anticipate that there will be Gadsden County customers who would want to get private line service to Tallahassee. This traffic, being interLATA, now looks like the illustration shown in Exhibit A. If the petition is granted, the traffic would look like the illustration shown in Exhibit B. Additionally, Quincy and St. Joe customers who now use special access will soon experience a major rate increase because AT&T-C is moving its special access POP from Quincy to Panama City. Special access customers in the Quincy exchange who now pay a small special transport fee to the POP will have to pay substantially more (the airline distance from Quincy to Panama City is 71 miles). In contrast, the Tallahassee POP, while farther than the Quincy POP, is closer than Panama City. (The distance from Quincy to Tallahassee is 21 miles.) These two scenarios are shown in Exhibits C and D.

We believe that the request by these local exchange companies to provide private line services over their facilities is a reasonable one. AT&T-C made the decision to move its special access POP to Panama City. It seems reasonable to expect that AT&T-C may lose customers as a result. Quincy and St. Joe are willing to step in and provide a lower priced service to customers to fill their needs. Therefore, Quincy and St. Joe should be permitted to carry private line-type traffic over the facilities they put in between Chattahoochee, Quincy, and Tallahassee.

The classification of this traffic is a further issue. Quincy and St. Joe inquire, since the facility was built to carry local (EAS) traffic, whether the private line traffic is also local. The answer to this is "no." Merely because there is local switched traffic does not mean that other traffic going over the same facilities is also local. Interexchange private line does not become intraexchange (local) private line simply because other traffic becomes local. As we view it, this request has the effect of erasing the LATA boundary as far as private line/special access traffic between the Chattahoochee, Quincy, and Tallahassee exchanges are concerned. Thus, private line traffic that originates in Chattahoochee or Quincy and terminates in Tallahassee would be classified as interexchange private line and booked into the intraLATA private line pool. Special access, which goes from Quincy and Chattahoochee to an IXC POP in Tallahassee, would be booked as special access revenues. None of this would be considered to be local private line.

We believe that Quincy and St. Joe's willingness to provide anticipated needed service to their customers, given the circumstances they are experiencing, is appropriate. The revenues, investment and expenses from these new private line-type routes should be booked as if the LATA boundary were not there.

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With regard to petitioners' concerns re: LATA boundaries, we note and rely upon the following statement of the Court in U.S. v. Western Electric Company, Inc., 569 F. Supp. 990, 994-5 (U.S.D.C., District of Columbia, 1983):

Thus, contrary to much popular and even industry understanding, the purpose of the establishment of the LATAs is only to delineate the areas in which the various [divested] telecommunications companies will operate; it is not to distinguish the area in which a telephone call will be "local" from that in which it becomes a "toll" or long distance call. To put it another way, the LATA is not an entity designed to supplant the local "exchange" as telephone users know it, nor will the establishment of the borders of the LATAs affect what is commonly known as the local calling area, i.e., those areas, typically combining more than one local exchange, within which subscribers may place telephone calls without paying an extra charge. The distance at which a local call becomes a long distance toll call has been, and will continue to be, determined exclusively by the various state regulatory bodies. After divestiture, calls placed within any one LATA may still be either "local" or "toll" depending upon the requirements or rates established by state regulators. Neither the LATAs nor the decree in this case changes that situation in any way."

Accordingly, we view Petitioners' LATA-based concerns as irrelevant to the question of our authorization for Quincy and St. Joe to provide the services at issue.

In view of the above, it is


ORDERED by the Florida Public Service Commission that the Petition of Quincy Telephone Company and St. Joseph Telephone and Telegraph Company to carry private line and special access traffic from both the Chattahoochee and Quincy exchanges to the Tallahassee exchange is hereby granted. It is further

ORDERED that the revenues, expenses and investment from this should be booked as interexchange private line or special access, where appropriate. It is further

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ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 22nd  
day of MARCH, 1991.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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 this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.



EXHIBIT A  
 QUINCY TO TALLAHASSEE  
 PRIVATE LINE VIA  
 ATT-C WITH QUINCY POP  
 TODAY

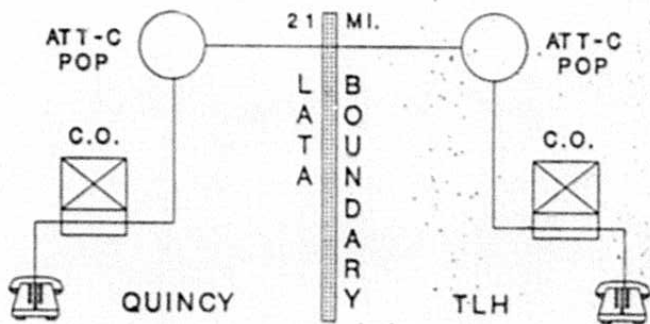


EXHIBIT B  
 QUINCY TO TALLAHASSEE  
 INTEREXCHANGE  
 PRIVATE LINE VIA LECS  
 AS PROPOSED

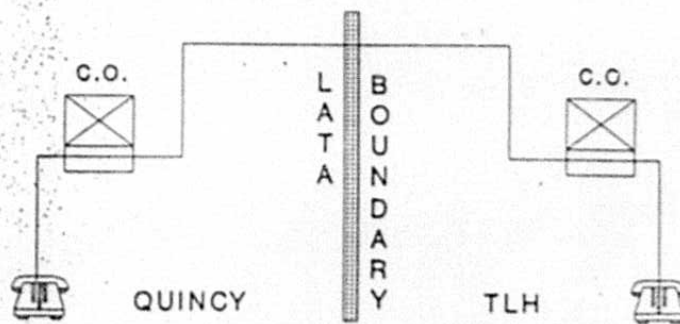


EXHIBIT C  
 SPECIAL ACCESS / INTERLATA  
 PRIVATE LINE  
 ATT-C POP IN PANAMA CITY  
 AFTER ATT-C POP MOVES

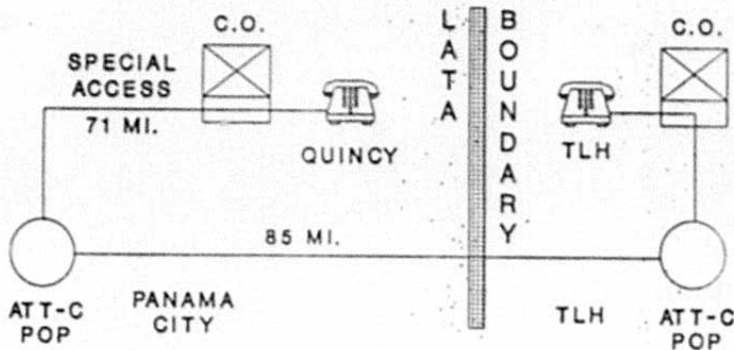


EXHIBIT D  
 SPECIAL ACCESS / INTERLATA  
 PRIVATE LINE  
 TO ATT-C POP IN TALLAHASSEE  
 AS PROPOSED

