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June 19, 2000

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
Betty Easley Conference Center
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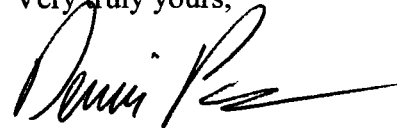
Re: PNG Telecommunications, Inc.
Petition for Waiver

Dear Ms. Bayo:

000764-TJE

Please find enclosed for filing on behalf of PNG Telecommunications, Inc. ("PNG") an original and 8 copies of PNG's Petition for Limited Waiver of 25-4.118 F.A.C. Please return one file-stamped copy of the Petition in the self-addressed, postage-prepaid envelope enclosed. Your attention to this matter is appreciated.

Very truly yours,



Dennis M. Packer

DMP/dp
encl.

cc: Todd Pfister, PNG
JC George, Broadwing

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DOCUMENT NUMBER-DATE
07707 JUN 23 8
FPSC-RECORDS/REPORTING

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of the Petition of PNG Telecommunications, Inc. for waiver of 25-4.118 F.A.C. : : Docket No. 000 764-78 : : Petition for Limited Waiver : : of 25-4.118 F.A.C.

.....

Pursuant to Fla. Stat. §364.337(4) and F.A.C. 25-24.455, PNG Telecommunications, Inc. ("PNG"), a certificated interexchange carrier, respectfully petitions the Commission for a waiver of the requirements set forth in 25-4.118 F.A.C. regarding interexchange carrier selection.

Granting PNG's petition is in the public interest.

I. Factual Background

PNG provides non-facilities based, resold intraLATA toll and interexchange telecommunications services in the State of Florida pursuant to the Commission's grant of a Certificate of Public Convenience and Necessity by Order No. PSC-95-0587-FOF-TI in Docket No. 941328-TI (Company Code TI346, Certificate No. 3981). PNG is also certified by the Commission as an ALEC by Order No. PSC-00-0608-CO-TX in Docket No. 991992-TX (although this transaction concerns only long-distance customers and no customer's local exchange service will be switched as a result of this transaction).

This petition arises out of a transaction in which PNG acquired the assets NTA Communications Corporation ("NTA"). NTA served as an agent for marketing and solicitation of customers for Broadwing Communications ("Broadwing") pursuant to an Agent Services Agreement between the two dated January 19, 2000. PNG acquired all of the assets of NTA through an Asset Purchase Agreement dated April 27, 2000, including an assignment of NTA's Agent Services Agreement with Broadwing. PNG and Broadwing then agreed to cancel the

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Agent Services Agreement in return for a transfer of the customer accounts acquired by NTA for Broadwing to PNG's customer base. The affected customers will remain on the Broadwing network; that is, Broadwing will continue to serve as the underlying facilities-based carrier for these customers. The special circumstances warranting a deviation or waiver from the Commission's rules and order include the need to provide seamless transitions of long distance service for the affected Broadwing customers.

PNG has filed a petition with the Federal Communications Commission for a limited waiver of the FCC's carrier selection rules. After the FCC petition and the instant petition have been approved,¹ PNG will send a letter to the affected Broadwing customers notifying them that Broadwing will no longer be serving as their presubscribed long distance carrier and that all "1+" calls from their telephone lines previously served by Broadwing will be completed by PNG. PNG's products and services are similar to those offered by Broadwing and Broadwing subscribers will receive rates that are comparable, if not lower, than the existing Broadwing rates. The affected Broadwing customers will be informed that they will continue to receive quality long distance services at economical prices from PNG without needed action. The affected Broadwing customers will also be reminded that they are under no obligation to take service from PNG, and that they are free to select another company to transmit their long distance calls.²

Additionally, PNG will send a "post-transfer letter" to the affected customers soon after the mailing described above. The "post-transfer letter" will reiterate the information disclosed

¹The circumstances involved in the instant Petition are similar to those in which the Commission has previously found sufficient to justify a waiver of the carrier change rules. See *In re Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996. IDT Corporation and IDT America, Corp. Request for Waiver*, CC Docket 94-129 (rel. May 2, 2000)

²See attached notice letter from PNG attached as Exhibit A.

in the first letter and provide the customer with other information on PNG services.³

II. Argument

Pursuant to the Commission's rules, prior to submitting a preferred carrier change, carriers must verify the subscriber's authorization of the change by one of the methods set forth in 25-4.118 F.A.C. Section 25-24.455(4) F.A.C. provides that:

[a]n interexchange company may petition for waiver of any provision of this Part. The Commission may grant a waiver to the extent that it determines that it is consistent with the public interest to do so. The Commission may grant the petition in whole or in part, may limit the waiver to certain geographic areas and/or may impose reasonable alternative regulatory requirements on the petitioning company.

In disposing of a petition, the Commission may consider whether the petition is in the public interest, whether market forces obviate the need for the provision in a particular instance and whether reasonable alternative regulatory methods may serve the same purpose.

25-24.455(4)(a)-(c) F.A.C.

PNG believes that its petition is in the public interest and that alternative regulatory methods will serve the same purpose in this instance as the Commission's carrier selection rules. PNG requests that the Commission accept the notice and post-transfer letters attached as Exhibits A and B in lieu of verification procedures of 25-4.118 F.A.C. The affected customers will be notified that their interexchange service will be continued with PNG at comparable or lower rates without action required of them; that they may receive a credit for any charge imposed by their local exchange carrier for changing their primary interexchange carrier; and that they are under no obligation to take service from PNG and may select another primary interexchange carrier.

³See attached post-transfer letter from PNG attached as Exhibit B.

Customers will also be given PNG's toll-free customer service number to call with any questions they may have about the transaction. PNG believes that the notice and post-transfer letters adequately serve the purpose of assuring that customers who remain with PNG genuinely want PNG as their interexchange and intraLATA toll carrier.

On the other hand, the Commission's verification rules would not be served by obtaining prior authorization and verification in order to switch the affected customers of Broadwing to PNG. If PNG were required to obtain verification from each customer, there is a risk that the long distance services of certain customers could be interrupted, or that customers could be charged higher casual calling rates if a carrier selection is not made since Broadwing has committed to discontinue service to these customers and to transfer them to PNG.

PNG requests expedited treatment of this waiver so that PNG and Broadwing may close their transaction as soon as possible. Waiver of the Commission's verification rules in this instance allows PNG to provide a seamless transition to the affected Broadwing customers, while ensuring that the affected customers clearly understand available choices. Therefore, the Commission should grant PNG's request for expedited waiver of the Commission's verification rules set forth in 25-4.118 F.A.C. to permit PNG to transfer selected customers of Broadwing to PNG's customer base without first obtaining customers' authorization and verification.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dennis Packer", written over a horizontal line.

Dennis M. Packer
Counsel for PNG Telecommunications, Inc.
4555 Lake Forest Drive
650 Westlake Center
Cincinnati, Ohio 45242
Tel: (513)563-3090
Fax: (513)563-3011



EXHIBIT A - PRE-TRANSFER NOTICE
LETTER

<<Date>>

Dear Broadwing Customer,

PowerNet Global Communications, a national provider of long-distance, data and Internet services has entered into an agreement with NTA Communications Corporation whereby PowerNet Global will purchase the assets of NTA. As part of this transaction, Broadwing Communications and PowerNet Global have agreed to transfer NTA members' accounts from Broadwing to PowerNet Global. Since your service will remain on the Broadwing network, you will continue to receive the same excellent service offered by Broadwing coupled with the low rates offered by PowerNet Global.

PowerNet Global offers customers simple, flat-rate pricing any time of the day or night. So PowerNet Global will be offering you rates comparable to – if not lower – than the rates you are currently getting with Broadwing.

Broadwing and PowerNet Global will work together to ensure that your transition to PowerNet Global will be seamless with no interruption of service. Nor will you be required to pay any switchover fees associated with the transfer. If you have any questions or concerns about this change in long distance service, we encourage you to call PowerNet Global's customer service at 1-800-860-9495. Our customer service representatives will be happy to discuss the transition with you and to answer any questions you may have.

We are confident you will be pleased with the superior service you receive from PowerNet Global. We also recognize, however, that you are free to select another carrier if you are not satisfied with the service you receive. We want you to know that we value our relationship with you and pledge to provide you with value-added communications solutions and unrivaled customer support as we move forward.

Sincerely,

Bernie Stevens
President & CEO
PowerNet Global Communications



Exh. B

P.O. Box 1858
West Chester, Ohio 45069

IMPORTANT NOTICE

As announced in previous correspondence, PowerNet Global has purchased the assets of NTA Communications Corporation and, as part of this transaction, Broadwing Communications and PowerNet Global agreed to transfer NTA members' accounts from Broadwing to PowerNet Global.. This transaction will allow us to offer you a wide variety of products at comparable or lower rates while maintaining the same quality of customer service you have received from Broadwing in the past. No charges or fees will be imposed and no rate increase will occur as a result of this transaction and the transfer of your account to PowerNet Global.

We are confident you will be pleased with the superior service you receive from PowerNet Global. We value our relationship and pledge our commitment to providing you with quality services and personalized customer care. However, if you are not satisfied with the service you receive from PowerNet Global, please understand that you are free to choose another long distance service provider.

Please contact us at 1-800-860-9495 if you have any questions or concerns about your service.

PowerNet Global Communications, Inc.