

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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DATE: JULY 20, 2000

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

FROM: DIVISION OF COMPETITIVE SERVICES (ISLER) *Pji*
DIVISION OF LEGAL SERVICES (VACCARO) *V BK*

RE: DOCKET NO. ~~000764~~ - PETITION BY PNG TELECOMMUNICATIONS, INC. FOR LIMITED WAIVER OF RULE 25-4.118, F.A.C., INTEREXCHANGE CARRIER SELECTION, FOR THE TRANSFER OF NTA COMMUNICATIONS CORPORATION CUSTOMER ACCOUNTS FROM BROADWING COMMUNICATIONS TO PNG TELECOMMUNICATIONS, INC.

AGENDA: 08/01/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000764.RCM

CASE BACKGROUND

On June 23, 2000, the Commission received a petition seeking a waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from PNG Telecommunications, Inc. (PNG). PNG holds interexchange carrier (IXC) Certificate No. 3981. PNG's petition stated that it had acquired the assets of NTA Communications Corporation, which included the customer accounts of Broadwing Communications Services Inc., holder of IXC Certificate No. 4031.

The basis for seeking a waiver is set forth in Rule 25-24.455(4), Florida Administrative Code. 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. Rule 25-24.490, Florida Administrative

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Code, makes this waiver provision applicable by incorporating Rule 25-4.118, Florida Administrative Code, under Chapter 25-24, Florida Administrative Code.

If the Commission approves PNG's request for a waiver, PNG's petition stated that it will mail a letter to all affected Broadwing customers notifying them of the upcoming transfer to PNG at comparable or lower rates, with no interruption of service. The letter to the customers also states that they are free to change carriers and any switching fee will be credited. (ATTACHMENT 1) After the transfer has been completed, PNG will send another letter to consumers reminding them that rates will not increase and that switching fees will be credited. (ATTACHMENT 2)

By Order No. PSC-00-1090-PAA-TI, issued June 6, 2000, the Commission approved a similar rule waiver when PNG had purchased the customer base of America One Communications, Inc. in Docket No. 000364-TI.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant PNG Telecommunications, Inc. a limited waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes. (Isler)

STAFF ANALYSIS: Pursuant to Rule 25-4.118(1), F.A.C., the provider of a customer shall not be changed without the customer's authorization. Rule 25-4.118(2), F.A.C., provides that an IXC shall submit a change request only if one of the following has occurred:

- (a) The provider has a letter of agency from the customer requesting the change;
- (b) The provider has received a customer-initiated call for service;
- (c) A third party firm has verified the customer's requested change.

Rule 25-24.455(4), F.A.C., Scope and Waiver, states:

(4) An interexchange company may petition for a 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 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:

(a) The factors enumerated in Section 364.337(2), Florida Statutes; [Now found in Section 364.337(4), F.S., 1999.]

(b) The extent to which competitive forces may serve the same function as, or obviate the necessity for, the provision sought to be waived; and

(c) Alternative regulatory requirements for the company which may serve the purposes of this Part.

Pursuant to Rule 25-24.490, F.A.C., Customer Relations; Rules Incorporated, Rule 25-4.118, F.A.C., is incorporated into Chapter 25-24, and applies to IXCs.

Staff believes that in this instance, it is in the public interest to waive the carrier selection requirements of Rule 25-4.118, F.A.C. It appears PNG and Broadwing have provided for a seamless transition, while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. The customers will receive ample notification of the transfer and have the opportunity not to participate. Furthermore, staff believes that granting this waiver will avoid unnecessary slamming complaints during this transition.

Accordingly, staff recommends that the interexchange carrier selection requirements in Rule 25-4.118, F.A.C., be waived for the transfer of NTA Communications Corporation customer accounts from Broadwing Communications.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of a Consummating Order 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 order.
(Vaccaro)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.



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



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.