

M E M O R A N D U M

August 21, 2000

RECORDS AND
REPORTING

AUG 21 PM 2:11

RECEIVED-FHSC

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (VACCARO) *W A/c*

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

1520-PAA

Attached is an ORDER GRANTING WAIVER OF RULE 25-4.118,
FLORIDA ADMINISTRATIVE CODE, with attachments, to be issued in the
above-referenced docket. (Number of pages in order - 5)

TV/sa
Attachment
cc: Division of Competitive Services (Isler)
I:000764or.tv

3- RAR

ATTACHMENT(S) NOT ON-LINE

Doc. 10285-00

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by PNG
Telecommunications, Inc. for
limited waiver of Rule 25-4.118,
F.A.C., Interexchange Carrier
Selection, and for transfer of
NTA Communications Corporation
customer accounts from Broadwing
Communications to PNG
Telecommunications, Inc.

DOCKET NO. 000764-TI
ORDER NO. PSC-00-1520-PAA-TI
ISSUED: August 22, 2000

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER OF RULE 25-4.118,
FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action discussed herein is preliminary in
nature and will become final unless a person whose interests are
substantially affected files a petition for a formal proceeding,
pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

On June 23, 2000, we 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.

DOCUMENT NUMBER-DATE

10285 AUG 22 8

FPSC-RECORDS/REPORTING

PNG's petition states that upon our approval, PNG 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. 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. PNG's letters are attached to this Order as Attachments 1 and 2, respectively, which, by reference, are incorporated herein.

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

RULE WAIVER

Pursuant to Rule 25-4.118(1), Florida Administrative Code, the provider of a customer shall not be changed without the customer's authorization. Rule 25-4.118(2), Florida Administrative Code, 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.

The basis for seeking a waiver of Rule 25-4.118, Florida Administrative Code, is set forth in Rule 25-24.455(4), Florida Administrative Code, which states as follows:

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, Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to IXCs.

We find that in this instance, it is in the public interest to waive the carrier selection requirements of Rule 25-4.118, Florida Administrative Code. 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, this waiver will avoid unnecessary slamming complaints during this transition.

Accordingly, the interexchange carrier selection requirements in Rule 25-4.118, Florida Administrative Code, are hereby waived for the transfer of NTA Communications Corporation customer accounts from Broadwing Communications to PNG. This docket shall be closed upon issuance of a consummating order unless a person whose substantial interests are affected by this Commission's decision files a protest within 21 days of the issuance of the proposed agency action order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition by PNG Telecommunications, Inc. for waiver of Rule 25-4.118, Florida Administrative Code, for the transfer of NTA Communications Corporation customer accounts from Broadwing Communications to PNG Telecommunications, Inc. is hereby granted as set forth in the body of this Order. It is further

ORDERED that Attachments 1 and 2 are, by reference, incorporated in the body of this Order. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the

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close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed upon the issuance of a consummating order.

By ORDER of the Florida Public Service Commission this 22nd day of August, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

TV

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 12, 2000.

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In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.



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

EXHIBIT B - POST MIGRATION NOTICE LETTER



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.