



Public Service Commission

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RECORDS AND REPORTING
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DATE: OCTOBER 26, 2000

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

FROM: DIVISION OF REGULATORY OVERSIGHT (MCCOY)
DIVISION OF LEGAL SERVICES (L. FORDHAM) *C.F.T.*

RE: DOCKET NO. 000825-TI - PETITION BY TTI NATIONAL, INC. FOR WAIVER OF RULE 25-4.118, F.A.C., INTEREXCHANGE CARRIER SELECTION, FOR THE PURCHASE OF THE CUSTOMER BASE OF MINIMUM RATE PRICING, INC.

AGENDA: 11/7/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\000825.RCM

CASE BACKGROUND

On July 7, 2000, this Commission received a petition seeking a waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from TTI National, Inc. (TTI). TTI is a certificated interexchange carrier (IXC) operating in Florida. The company informed the Commission that they had agreed to purchase the wireline customers of Minimum Rate Pricing, Inc.

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

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TTI has informed staff that upon Commission approval of this petition, TTI and Minimum Rate Pricing, Inc. will send out a joint letter to all Minimum Rate Pricing, Inc.'s wireline customers notifying them of the upcoming transfer to TTI at comparable or lower rates, with no switching fees and no interruption of service. The customers will also be notified that they are free to change carriers if they are not satisfied. TTI has also stated that prior to the transfer a "Welcome" letter will be sent to remind customers that there will be no interruption of service, rates will not increase, and that no transfer or switching fees will apply. The "Welcome" letter will also provide the former Minimum Rate Pricing, Inc. customers with an 800 number to assist them if they have any questions regarding the transfer of their service.

This is the second request in which a certificated company purchasing the customer base of another certificated company has come before the Commission seeking a waiver of the interexchange carrier selection rules. The Commission has granted a previous request in Order No. PSC-00-1090-PAA-TI, issued June 6, 2000.

DISCUSSION OF ISSUES

ISSUE 1: Should TTI be relieved in this instance of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes. (McCoy)

STAFF ANALYSIS:

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.

Rule 25-24.455(4), Florida Administrative Code, 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), Fla. 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 IXC's.

Staff believes that in this instance it is in the public interest to waive the carrier selection requirements of Rule 25-4.118, Florida Administrative Code. The companies 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. If prior authorization is required in this event, customers may fail to respond to a request for authorization, neglect to select another carrier, and lose their long distance service. 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, Florida Administrative Code, be waived for the TTI purchase of Minimum Rate Pricing, Inc.'s customer accounts.

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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.
(L. Fordham)

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.