

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: JULY 11, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (PRUITT)
OFFICE OF THE GENERAL COUNSEL (TEITZMAN) *AT* *SK*

RE: DOCKET NO. 020540-TI - JOINT PETITION FOR WAIVER OF
CARRIER SELECTION REQUIREMENT RULE 25-4.118, F.A.C., TO
FACILITATE TRANSFER OF INTRALATA SERVICE CUSTOMERS FROM
BELLSOUTH LONG DISTANCE, INC. (HOLDER OF IXC CERT. NO.
5241) TO BROADWING TELECOMMUNICATIONS INC. (HOLDER OF IXC
CERT. NO. 3178).

AGENDA: 07/23/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020540.RCM

CASE BACKGROUND

On June 19, 2002, the Commission received a joint petition from BellSouth Long Distance, Inc. (Bell LD) and Broadwing Telecommunications Inc. (Broadwing) seeking a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, for the transfer of certain long distance customers from Bell LD to Broadwing.

The customers to be transferred are those 800 service subscribers who are served by Bell LD for intraLATA service and Broadwing for interLATA. Only the intraLATA service for these customers would be switched. Approximately 1,000 customers would be affected by this transfer. According to the petition, Broadwing

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will provide duplicate services at the same rates that are currently provided by Bell LD.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.337 and 364.603, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission relieve Broadwing Telecommunications Inc. in this instance of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes. (Pruitt)

STAFF ANALYSIS: Pursuant to Rule 25-4.118(1), Florida Administrative Code, a customer's carrier cannot be changed without the customer's authorization. Rule 25-4.118(2), Florida Administrative Code, provides that a carrier 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.

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.

Rule 24-24.455(4), Florida Administrative Code, reads 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

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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(4), Fla. Statutes;

(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 may serve the purpose of this Part.

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. Broadwing has attested that it has provided for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. Staff has reviewed the notice that will be sent to the Bell LD customers. The customers will receive ample notification of the transfer, and should not experience any interruption of service, rate increase, or switching fees.

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 carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived in this instance.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. **(Teitzman)**

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.