

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint request by PNG Telecommunications, Inc. d/b/a PowerNet Global Communication d/b/a CrossConnect (TI346) and Global Touch Telecom, Inc. (TJ849) for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., in the purchase of assets and transfer of long distance customers from Global Touch Telecom, Inc. to PNG Telecommunications, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect.

DOCKET NO. 080096-TI
ORDER NO. PSC-08-0230-PAA-TI
ISSUED: April 7, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman
LISA POLAK EDGAR
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING WAIVER

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.

On February 13, 2008, PNG Telecommunications, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect (PNG) and Global Touch Telecom, Inc. (GTT), both intrastate interexchange companies (IXCs), submitted a joint request for a waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code (F.A.C.). If the waiver is granted, GTT can transfer certain customer accounts to PNG without PNG having to obtain each customer's authorization. Approximately 412 customers are being transferred. GTT will retain its IXC registration with this Commission and will continue providing long distance service in Florida.

This waiver is being sought to provide notice of the transfer of assets, for the treatment of customers in a consumer-friendly manner and to allow for a transition to occur in a smooth process protecting both the consumers and the company. Without this waiver, PNG would be required to obtain signed letters of agency (LOAs) or third party verifications (TPVs) from each customer being transferred. With the waiver, PNG can protect itself from possible complaints of

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unauthorized carrier changes. This waiver is also beneficial to the customers as they will not be subject to a loss of service on the date of transfer. We are vested with jurisdiction in this matter pursuant to Sections 364.02 and 364.603, Florida Statutes (F.S.).

Pursuant to Rule 25-4.118(1), F.A.C., a customer's carrier cannot be changed without the customer's authorization. Rule 25-4.118(2), F.A.C., 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 (LOA) . . . from the customer requesting the change
- (b) The provider has received a customer-initiated call for service . . . ;
- (c) A firm that is independent and unaffiliated with the provider . . . has verified the customer's requested change . . .

Pursuant to Rule 25-24.475(3), F.A.C., Rule 25-4.118, F.A.C., is incorporated into Chapter 25-24, and applies to IXCs.

Rule 25-24.455(2), F.A.C., states:

An IXC may petition for a waiver of any provision of this Part. The waiver shall be granted in whole, granted in Part or denied based on the following:

- (a) The factors enumerated in Section 364.337(4), Florida 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;
- (c) Alternative regulatory requirements for the company which may serve the purposes of this part; and
- (d) Whether the waiver is in the public interest.

The authority for Rule 25-4.118, F.A.C., is found in Section 364.603, F.S., which is a section we are authorized to waive.

PNG has attested that it will provide for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. The notice that will be sent to GTT's customers has been reviewed and it was found to be adequate. The customers should not experience any interruption of service, rate increase, or switching fees.

Neither PNG nor GTT has any outstanding regulatory assessment fees, penalties or interest associated with its IXC registrations. Furthermore, neither company has active customer complaints on file with this Commission. PNG stated in its petition that if a former GTT customer files a complaint about the service provided by GTT prior to the transfer, PNG would refer the complaint to GTT and GTT would resolve it.

Upon consideration, we find it is appropriate to waive the carrier selection requirements of Rule 25-4.118, F.A.C. 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 services. Furthermore, granting this waiver will avoid unnecessary slamming complaints during this transition.

Therefore, we approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., in the transfer of Global Touch Telecom, Inc.'s customers to PNG Telecommunications, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect.

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 shall be closed upon the issuance of a consummating order.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., in the transfer of Global Touch Telecom, Inc.'s customers to PNG Telecommunications, Inc. d/b/a PowerNet Global Communications d/b/a CrossConnect is approved. It is further

ORDERED that if no person whose substantial interests are affected by this proposed agency action files a protest within 21 days of the issuance of the order, this docket shall be closed upon the issuance of a consummating order.

By ORDER of the Florida Public Service Commission this 7th day of April, 2008.



ANN COLE
Commission Clerk

(S E A L)

VSM

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on April 28, 2008.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.