

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-

RECEIVED-FPSC
02 JAN 10 AM 10:28
COMMISSION
CLERK

DATE: JANUARY 10, 2002
TO: DIRECTOR, DIVISION OF COMMISSION CLERK AND ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF REGULATORY OVERSIGHT (T. MCCOY) *smg R Amy PD*
DIVISION OF LEGAL SERVICES (K. PEÑA/B. KEATING) *A BK*
RE: DOCKET NO. 011338-TP - PETITION BY ENHANCED COMMUNICATIONS NETWORK, INC. FOR WAIVER OF RULE 25-4.118, F.A.C., INTEREXCHANGE CARRIER SELECTION, FOR PURCHASE OF CUSTOMER BASE OF SINGLE BILLING SERVICES, INC.
AGENDA: 01/22/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE
CRITICAL DATES: NONE
SPECIAL INSTRUCTIONS: NONE
FILE NAME AND LOCATION: S:\PSC\RGO\WP\011338.RCM

CASE BACKGROUND

On October 5, 2001, this Commission received a petition seeking a waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from Enhanced Communications Network, Inc. (the Petitioner). The Petitioner is a certificated interexchange carrier (IXC), Certificate No. 5766, operating in Florida. The Petitioner has agreed to purchase certain customer accounts of Single Billing Services, Inc. d/b/a Asian American Association (SBS). SBS is certificated as an IXC switchless rebiller, Certificate No. 5732, also operating in Florida. The accounts to be acquired are comprised of all customers that have selected SBS as their preferred carrier for long distance services.

DOCUMENT NUMBER-DATE

00329 JAN 10 08

FPSC-COMMISSION CLERK

DOCKET NO. 011338-TP
DATE: January 10, 2002

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. Because Rule 25-24.490, Florida Administrative Code, incorporates Rule 25-4.118, Florida Administrative Code, into the Commission's IXC rules, the waiver provisions of Rule 25-24.455(4) are applicable to petitions for waiver of Rule 25-4.118, Florida Administrative Code, as it applies to IXCs.

The Petitioner has informed staff that upon Commission approval of this petition, the transferring company will send out a letter (Attachment A) to all affected customers notifying them of the following: the pending change of their carrier selection to Enhanced Communications Network, Inc.; that there will be no charges associated with the change; that services will be provided at rates comparable to or lower than those charged by the current carrier; and that they have the option to select a different long distance provider if they prefer. The initial notification will also include a toll-free customer inquiry number that customers may call for more information.

The Commission is vested with jurisdiction over these matters pursuant to Sections 364.01, 364.337 and 364.603, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

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

RECOMMENDATION: Yes. (T. McCoy)

STAFF ANALYSIS: Pursuant to Rule 25-4.118(1), Florida Administrative Code, a customer's service provider 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 IXCs. Thus, the waiver provisions of Rule

DOCKET NO. 011338-TP
DATE: January 10, 2002

25-24.455(4), Florida Administrative Code, are applicable to Rule 25-4.118, Florida Administrative Code, as it 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, Florida Administrative Code. The company has 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 to choose another carrier. 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 customer accounts affected by Enhanced Communications Network, Inc.'s purchase of the wireline customer base of Single Billing Services, Inc. d/b/a Asian American Association.

This is not the first 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 granted previous requests in Order Nos. PSC-00-1090-PAA-TI, issued June 6, 2000, and PSC-01-0050-PAA-TI, dated January 8, 2001.

DOCKET NO. 011338-TP
DATE: January 10, 2002

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.

(K. Peña/(B. Keating)

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.

[SINGLE BILLING SERVICES -COMPANY LETTERHEAD]

Subject: New Service Provider

Dear Valued Customer:

On October 28, 2001, Enhanced Communications Network, Inc. ("ECN") will acquire certain assets of Single Billing Services, Inc., including the carrier's subscriber base.

ECN has no plans to change the rates, terms and conditions of services currently provided to you. In addition, no charges or fees will be imposed as a result of this transfer. ECN will provide at least thirty (30) days prior written notice of any changes to these rates, terms and conditions.

As our customer, you have the right to choose your long distance provider; you are free to choose another carrier to supply the services currently provided, if an alternative carrier is available.

All subscribers receiving this notice, even those who have arranged PIC freezes through the local exchange carrier, will transfer to ECN, unless another carrier has been selected prior to October 28, 2001. If you have a PIC freeze on your account you will need to contact the LEC to arrange for a new freeze.

We value your business and will continue to do our best providing the highest quality service at competitive prices.

Should you have a question or complaint concerning this transfer please contact ECN by dialing the following toll-free number: () - .

Single Billing Services, Inc.