

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Emergency petition by
BellSouth Telecommunications,
Inc. for temporary waiver of
Rule 25-4.118, F.A.C. (Carrier
selection requirements), for
transfer of local business
customer base of Adelphia
Business Solutions of
Jacksonville, Inc. and Adelphia
Business Solutions Investment,
LLC.

DOCKET NO. 020473-TP
ORDER NO. PSC-02-0895-PAA-TP
ISSUED: July 5, 2002

The following Commissioners participated in the disposition of
this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER GRANTING EMERGENCY PETITION FOR TEMPORARY 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.

CASE BACKGROUND

On May 24, 2002, BellSouth Telecommunications, Inc. filed an
emergency petition for a temporary waiver of Rule 25-4.118, Florida
Administrative Code for the transfer of local business customers
from Adelphia Business Solutions of Jacksonville, Inc. and Adelphia
Business Solutions Investment, LLC, pursuant to Section 120.542,
Florida Statutes, and Rule 28-104.004, Florida Administrative Code.

DOCUMENT NUMBER DATE

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FFSC-COMMISSION CLERK

Rule 25-4.118, Florida Administrative Code, requires customer authorization before submitting a preferred carrier change.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.01 and 364.603, Florida Statutes.

DISCUSSION

Pursuant to Rule 25-4.118, Florida Administrative Code, a customer's carrier cannot be changed without the customer's authorization. BellSouth seeks a waiver of this rule, which requires prior to a carrier change:

- (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; or
- (c) A third party firm has verified the customer's requested change.

BellSouth filed the emergency petition on May 24, 2002. According to the petition, BellSouth has purchased the right to serve the local business customer base of Adelphia Business Solutions of Jacksonville, Inc. and Adelphia Business Solutions Investment, LLC (collectively "Adelphia"). On June 4, 2002, BellSouth filed a letter amending the conversion date in the petition from July 5 to July 11, 2002. On June 5, 2002, BellSouth filed a letter further amending the conversion period to include an ending date of July 21, 2002.

Adelphia has filed for bankruptcy protection and will no longer be providing service to its business customers. The purchase agreement provides time is of the essence in the transfer of the customer base to accommodate Adelphia's business plans.

BellSouth asserts that its emergency temporary waiver request meets the standards of Section 120.542, Florida Statutes, and that of the underlying statute 364.01(4), Florida Statutes, "to ensure that basic local telecommunications services are available to all consumers." The petition states that the temporary waiver is necessary to satisfy that objective. Notices will be mailed to all affected customers informing them that Adelphia will no longer be

providing local and local toll service and that they will be switched, without carrier change charges or interruption of service, to BellSouth. The notice will also inform them that they may select a carrier other than BellSouth.

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 local service. Furthermore, staff believes that granting this waiver will avoid unnecessary slamming complaints during this transition.

BellSouth filed its request in accordance with Rule 28-104.004, Florida Administrative Code, Petition for Emergency Variance or Waiver, which provides that persons seeking emergency waivers shall so state in the caption of the petition, shall submit a petition in compliance with Section 120.542(5), Florida Statutes, and shall specifically allege the reasons the situation is an emergency and the waiver is necessary on an expedited time frame. Under Rule 28-104.004, Florida Administrative Code, the notice and comment period provided for in Section 120.542(6), Florida Statutes, are not required. We find that BellSouth has marginally, though sufficiently, alleged that this is an emergency situation that warrants processing the request on an expedited basis.

Furthermore, we find that BellSouth has sufficiently demonstrated that the waiver meets the purpose of the underlying statutes and is, in fact, necessary to fulfill the purpose of Sections 364.01, 364.03, and 364.19, Florida Statutes. Staff notes that while it believes BellSouth has sufficiently demonstrated that it will meet the purpose of the underlying statutes, BellSouth failed to correctly cite the pertinent provisions. Accordingly, we grant BellSouth's emergency petition for a temporary waiver beginning July 11, 2002, and ending July 21, 2002.

Based on the foregoing, it is

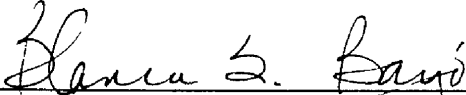
ORDERED by the Florida Public Service Commission that the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, are temporarily waived in this instance. It is further

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ORDERED that the provisions of this Order, issued as a proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission this 5th day of July, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

JAE

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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 26, 2002.

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.