



Public Service Commission

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COMMISSION CLERK &

DATE: JULY 25, 2002

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

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

RE: DOCKET NO. 020504-TI - PETITION OF LEGENT COMMUNICATIONS CORPORATION D/B/A LONG DISTANCE AMERICA (HOLDER OF IXC CERTIFICATE NO. 8090) FOR WAIVER OF CARRIER SELECTION REQUIREMENTS OF RULE 25-4.118, F.A.C., FOR ACQUISITION OF CUSTOMER BASE AND RELATED ASSETS OF CEO TELECOMMUNICATIONS, INC. (HOLDER OF IXC CERTIFICATE NO. 4073), AND REQUEST FOR CANCELLATION OF IXC CERTIFICATE 4073 HELD BY CEO.

AGENDA: 08/06/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020504.RCM

CASE BACKGROUND

On June 12, 2002, this Commission received a petition from Legent Communications Corporation d/b/a Long Distance America (Legent), holder of IXC Certificate No. 8090, for the waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, for the acquisition of the customer base and related assets of CEO Telecommunications, Inc., holder of IXC Certificate No. 4073 and for the cancellation of IXC Certificate No. 4073.

DOCUMENT NUMBER-DATE

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There are no outstanding Regulatory Assessment Fees owed by the entities mentioned above. The Commission is vested with jurisdiction in this matter pursuant to Sections 364.335, 364.337, and 364.603, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the acquisition of the customer base and related telecommunications assets of CEO Telecommunications, Inc. by Legent Communications Corporation d/b/a Long Distance America and relieve Legent Communications Corporation d/b/a Long Distance America in this instance of the carrier selection requirements of 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

DATE: JULY 25, 2002

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(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. Legent 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 notices that will be sent to the 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.

Therefore, staff recommends that the Commission approve the transfer of the customer base and the related telecommunications assets and recommends that the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived in this instance.

DOCKET NO. 020504-TI

DATE: JULY 25, 2002

ISSUE 2: Should the Commission grant the request to cancel IXC Certificate No. 4073 by CEO Telecommunications, Inc?

RECOMMENDATION: Yes. (Pruitt)

STAFF ANALYSIS: Rule 25-24.474, Florida Administrative Code, outlines the information the Commission needs from a certificated company to process a voluntary cancellation of an IXC certificate. CEO has complied with the requirements by paying all due Regulatory Assessment Fees and has provided for the seamless transition of its customers to Legent.

Accordingly, staff recommends that IXC Certificate No. 4073 be canceled effective the date of issuance of the Consummating Order.

ISSUE 3: 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.