



Public Service Commission
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DATE: MAY 22, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (T.WILLIAMS)
OFFICE OF THE GENERAL COUNSEL (L.DODSON) *LDW AC*

RE: DOCKET NO. 030314-TI - REQUEST FOR APPROVAL OF INDIRECT ACQUISITION OF LOCAL TELCOM HOLDINGS, LLC (HOLDER OF IXC CERTIFICATE NO, 7808) BY WORLDXCHANGE CORP. D/B/A ACCERIS COMMUNICATIONS PARTNERS D/B/A ACCERIS COMMUNICATIONS SOLUTIONS (HOLDER OF IXC CERTIFICATE NO. 7570); REQUEST FOR WAIVER OF CARRIER SELECTION REQUIREMENTS OF RULE 25-4.118, F.A.C.; AND REQUEST FOR CANCELLATION OF IXC CERTIFICATE NO. 7808.

AGENDA: 06/03/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\030314.RCM

CASE BACKGROUND

On April 4, 2003, this Commission received a petition from Swidler Berlin Shereff Friedman, LLP, on behalf of their clients, Worldxchange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions (holder of IXC Certificate No. 7570), requesting approval of an indirect acquisition of the Florida assets and customer base of Local Telcom Holdings, LLC and cancellation of Local Telcom Holdings, LLC IXC Certificate No. 7808. A petition for a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, was also included.

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Pursuant to the purchase agreement Local Telcom Holdings, LLC has agreed to sell all of its regulated Florida operations. As a result, all of the assets and the entire customer base will be transferred to Worldxchange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions.

There are no outstanding penalties, interest, or Regulatory Assessment Fees (RAFs) owed by Local Telcom Holdings, LLC. 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 approve the request for transfer of the assets and the entire customer base from Local Telcom Holdings, LLC to Worldxchange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions and the cancellation of Local Telcom Holdings, LLC's IXC Certificate No. 7808?

RECOMMENDATION: Yes. (Williams)

STAFF ANALYSIS: Pursuant to Rule 25-24.473(3), Florida Administrative Code, the application for assignment or transfer of a certificate will be granted if the Commission determines that such approval is in the public interest.

The proposed transaction would be seamless and transparent to Local Telcom Holdings, LLC's customers in Florida. The customers should not experience any interruption of service, rate increase, or switching fees. Further, the financial, managerial and technical qualifications of Worldxchange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions (Acceris) would increase competition in Florida by reinforcing the status of Acceris as a viable competitor. The expansion would improve Acceris's position in Florida's market and permit Acceris to compete more effectively against larger carriers.

Therefore, staff believes that in this instance the transfer of the customer base and cancellation of Local Telcom Holdings,

LLC's IXC Certificate No. 7808 is in the public interest and recommends that it be approved.

ISSUE 2: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of long distance customers from Local Telcom Holdings, LLC to Worldxchange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions?

RECOMMENDATION: Yes. (Williams)

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 (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 25-24.490, Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to IXCs.

Rule 25-24.455(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 limit the waiver to certain geographic areas and/or may impose reasonable alternative regulatory requirements on

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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.

Worldxchange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions 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 was sent to Local Telcom Holdings, LLC's customers and found it to be adequate. The customers should not experience any interruption of service, rate increase, or switching fees.

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

ISSUE 3: Should this docket be closed?

RECOMMENDATION: 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. (L.Dodson)

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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.