

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to the transfer of customers from Global Crossing Telemanagement, Inc. to Global Crossing Local Services, Inc.

DOCKET NO. 100335-TX
ORDER NO. PSC-10-0453-PAA-TX
ISSUED: July 15, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER OF
CARRIER SELECTION REQUIREMENTS

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.

BACKGROUND

On June 22, 2010, Global Crossing Telemanagement, Inc. (GCTM) and Global Crossing Local Services, Inc. (GCLS) (collectively, Petitioners) filed a joint petition for a waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code (F.A.C.), in order to facilitate the transfer of customers from GCTM to GCLS due to the merger of the two companies.

GCTM and GCLS are both wholly owned indirect subsidiaries of Global Crossing Limited. GCTM and GCLS are also certificated competitive local exchange companies (CLEC), pursuant to CLEC Certificate Nos. 5308 and 5574, respectively. As part of an internal corporate reorganization, GCTM will merge into GCLS. The merger is scheduled to take place on or about September 30, 2010. Written notice of the proposed merger will be provided to GCTM customers around July 31, 2010.

Upon the merger, GCTM will transfer approximately 81 business customers in Florida to GCLS. The Petitioners are seeking a waiver of Rule 25-4.118, F.A.C., so that GCLS will not

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have to obtain authorization from each customer that is transferred. Without this waiver, GCLS would be required to obtain signed letters of authorization (LOAs) or third party verifications (TPVs) from each customer. With the waiver, GCLS can protect itself from possible complaints of unauthorized carrier changes. The waiver will also be beneficial to the customers as they will not be subject to a loss of service on the date of transfer.

We have jurisdiction in this matter pursuant to Sections 364.335, 364.336, 364.337, 364.345, and 364.603, Florida Statutes (F.S.).

ANALYSIS

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 in pertinent part 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 25-24.845, F.A.C., Rule 25-4.118, F.A.C., is incorporated into Chapter 25-24, and applies to CLECs.

Section 364.337(2), F.S., states in pertinent part:

A certificated competitive local exchange telecommunications company may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The commission may grant such petition if determined to be 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.

GCLS attests that this transfer will be transparent to all affected customers. There will be no changes to the rates, terms, or conditions of service. The customers will not incur any charges as a result of the transfer and all customer service contact information will remain the same. GCLS also does not plan to change any of the individual account executives that are assigned to many of the 81 accounts that the company will acquire from GCTM.

Currently, neither GCTM nor GCLS have any outstanding complaints. If complaints are filed against GCTM and are not resolved prior to the merger, GCLS will be responsible for resolving all outstanding complaints. Neither GCTM nor GCLS have any outstanding regulatory assessment fees, penalties or interest associated with their respective CLEC certificate.

CONCLUSION

We find that it is in the public interest to waive the carrier selection requirements of Rule 25-4.118, F.A.C. A request for prior authorization from customers could result in customers failing to respond to the request for authorization, neglecting to select another carrier, and losing their local service. Furthermore, granting this waiver will avoid unnecessary slamming complaints during the transition. Therefore, we approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C. The approved waiver is only applicable to the specific set of customers identified in the petition. The Petitioners are required to provide us with notification of the actual date when the transaction is consummated. If for any reason the transaction is not consummated, any waiver approved shall be null and void.

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 administratively upon notification from the Petitioners that the transaction is complete.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Global Crossing Telemangement, Inc. and Global Crossing Local Services, Inc.'s joint petition for a waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code is approved. This waiver only applies to the specific set of customers identified in the petition. It is further

ORDERED that the Petitioners are required to provide the Commission notification of the actual date when the transaction is consummated. If for any reason the transaction is not consummated, any waiver approved by this Commission shall be null and void. It is further

ORDERED that 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 administratively.

By ORDER of the Florida Public Service Commission this 15th day of July, 2010.



ANN COLE
Commission Clerk

(SEAL)

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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 August 5, 2010.

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.