

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by PNG
Telecommunications, Inc. for
waiver of Rule 25-4.118, F.A.C.,
Interexchange Carrier Selection
for the purchase of the customer
base of America One
Communications, Inc.

DOCKET NO. 000364-TI
ORDER NO. PSC-00-1090-PAA-TI
ISSUED: June 6, 2000

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING 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.

BACKGROUND

On March 27, 2000, this Commission received a petition seeking a waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from PNG Telecommunications, Inc. (PNG). PNG is a certificated interexchange carrier (IXC) operating in Florida. The company informed us that it had agreed to purchase the wireline customers of America One Communications, Inc. (America One).

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06855 JUN-68

FPSC-RECORDS/REPORTING

PNG has informed us that during the week of March 13, 2000, PNG and America One sent out a joint letter to all America One wireline customers notifying them of the upcoming transfer to PNG at comparable or lower rates, with no switching fees and no interruption of service. The letter also notified the customers that they were free to change carriers if they were not satisfied. PNG has also stated that prior to the transfer, a "Welcome" letter will be sent to remind customers that there will be no interruption of service, rates will not increase, and that no transfer or switching fees apply. The March 2000 letter and the "Welcome" letter are attached to this Order as Attachments 1 and 2, respectively, which, by reference, are incorporated herein.

This is the first request in which a certificated company purchasing the customer base of another certificated company has come before this Commission seeking a waiver of the interexchange carrier selection rules.

RULE WAIVER

Pursuant to Rule 25-4.118(1), Florida Administrative Code, the provider of a customer 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; or (c) A third party firm has verified the customer's requested change.

The basis for seeking a waiver of Rule 25-4.118(2), Florida Administrative Code, is set forth in Rule 25-24.455(4), Florida Administrative Code, which 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, Florida Administrative Code, and applies to IXC's.

We find 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 companies have 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 not to participate. 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, this waiver will prevent unnecessary slamming complaints during this transition.

Accordingly, the interexchange carrier selection requirements in Rule 25-4.118, Florida Administrative Code, are hereby waived for PNG's purchase of America One's customer accounts. This docket shall be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by this Commission's decision files a protest within 21 days of the issuance of the proposed agency action order.

Therefore, based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Petition by PNG Telecommunications, Inc. for waiver of Rule 25-4.118, Florida Administrative Code for the purchase of the customer base of America One Communications, Inc. is hereby granted as set forth in the body of this Order. It is further

ORDERED that Attachments 1 and 2 are, by reference, incorporated in the body of this Order. It is further

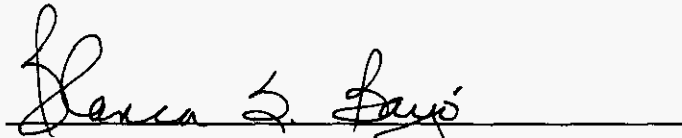
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is

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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" 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 6th day of June, 2000.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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

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Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on June 27, 2000.

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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

March 07, 2000

AM1
Dial 1 Transfer Letter, ver 2

Dear America One Customer,

We wish to thank you for choosing America One as your long distance provider. It has been a pleasure serving you. We're writing to you today to let you know that because of a change in our business plans, your long distance service will be transferred from America One to PowerNet Global Communications. We expect the transfer to occur on approximately <date>.

PowerNet Global is a national long distance provider that offers customers simple, flat-rate pricing any time of the day or night. So PowerNet Global will be offering you rates comparable - if not lower - than what you are currently getting with America One. Along with low flat-rate pricing for long distance, PowerNet Global offers some of today's most desired services such as:

- Low-cost Internet access
- Enhanced calling features
- Personal 800 service

PowerNet Global will be mailing an announcement outlining these services in detail to you soon.

You should also know that America One and PowerNet Global will work together to ensure that your transition to PowerNet Global will be seamless and PowerNet Global will not require you to pay any switchover fees associated with the transfer. If you have any questions or concerns about this change in long distance service, we encourage you to call America One's customer service at <1-800-XXX-XXXX> prior to <date>. After <date> please call PowerNet Global's customer service at <1-800-XXX-XXXX>

We recognize that you are free to change carriers if you are not satisfied with the service you receive. PowerNet Global plans to provide you with value-added communications solutions and unrivaled customer support and looks forward to serving your long distance needs.

Sincerely,

David Tyler
Vice President
America One Communications

Bernie Stevens
President & CEO
PowerNet Global Communications

Dear America One Customer,

Welcome to PowerNet Global Communications, a leading edge provider of low, flat-rate long distance services. **This letter is for your information only; no further action on your part is required.**

Important Points to Remember:

- You will experience no interruption in your current long distance service
- Your current long distance rates will not increase
- You will not be billed or charged any fees for transferring from America One to PowerNet Global
- This transition is approved by America One and is not an attempt to change your long distance services without your consent
- Your long distance services will now be billed by PowerNet Global Communications

Here's how we will help you:

- Same flat rate, 24 hours a day, 7 days a week
- No monthly fees or surcharges
- World-class Customer Service
- Easy to read itemized billing
- 6 second rounding with 18-second start
- Expanded services available for your special needs

PowerNet Global is excited to have you as part of our team. PowerNet Global provides reliable long-distance as well as a growing spectrum of communications solutions including:

- Low-cost Internet access - Enhanced Calling Features - Personal 800 Service

Founded in 1992, Cincinnati, Ohio-based PowerNet Global pioneered simple, flat rate, long distance plans coupled with excellent customer support. PowerNet Global, a Cisco Powered Network, has teamed with Cisco Systems Inc., the industry leader in network services, to provide you with leading edge, efficient, and reliable products and services.

Your service with PowerNet Global will begin during the first week of April. If you have any questions regarding your account or would like to inquire about additional services, please call one of our Customer Service Associates at 800-860-9495 and they will gladly assist you. To learn more about PowerNet Global, visit our website at www.powernetglobal.com

Sincerely,

Bernie Stevens
President and CEO