

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for waiver of Rule 25-4.118, F.A.C., to approve acquisition by Weston Telecommunications, LLC of certain assets of Easton Telecom Services, Inc. (holder of IXC Certificate No. 3989 and ALEC Certificate No. 5187).

DOCKET NO. 020042-TP
ORDER NO. PSC-02-0289-PAA-TP
ISSUED: March 6, 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

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING JOINT PETITION FOR WAIVER OF RULE 25-4.118,
F.A.C., TO APPROVE ACQUISITION BY WESTON TELECOMMUNICATIONS, LLC
OF CERTAIN ASSETS OF EASTON TELECOM SERVICES, INC. (HOLDER OF IXC
CERTIFICATE NO. 3989 AND ALEX CERTIFICATE NO. 5187)

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.

I. Background

On January 11, 2002, Weston Telecommunications, LLC (Weston) and Easton Telecom Services, Inc. (Easton) submitted a petition seeking a waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, to approve acquisition by

DOCUMENT NUMBER-DATE

02580 MAR-6 8

FPSC-COMMISSION CLERK

ORDER NO. PSC-02-0289-PAA-TP

DOCKET NO. 020042-TP

PAGE 2

Weston of certain assets of Easton, including but not limited to, Easton's subscriber base and accounts receivable. Weston and Easton informed the Commission that they have both agreed to the acquisition of certain assets, including Easton's subscriber base.

Easton is holder of Interexchange Telecommunications (IXC) Certificate No. 3989 and Alternative Local Exchange (ALEC) Certificate No. 5187. Weston's application to provide interexchange service, Docket No. 011655-TI, was also approved at the March 5, 2002 Agenda Conference.

The basis for seeking a waiver is set forth in Rule 25-24.455(4), Florida Administrative Code. The Commission may consider whether the petition is in the public interest, whether market forces dictate that there's a need for the provision in a particular instance, and whether reasonable alternative regulatory methods may serve the same purpose. Rule 25-24.490, Florida Administrative Code, makes this waiver provision applicable by incorporating Rule 25-4.118, Florida Administrative Code.

Easton provides domestic interstate and international telecommunications service and has the authority to provide intrastate interexchange service in 48 states, along with local authority in 30 states, including Florida.

Upon our approval of this waiver, Weston and Easton have informed staff that notification regarding these changes will be sent to all affected customers. (ATTACHMENT A) The notification will advise the customers of the following: 1) Weston has no plans to change the rates, terms and conditions of services currently provided; 2) no charges or fees will be imposed as a result of this transfer; 3) Weston will provide at least 30 days' prior notice of any changes to these rates, terms and conditions; 4) a customer has the right to choose a long distance provider and is free to choose another carrier to supply the services currently provided, if an alternative carrier is available; 5) all subscribers will be transferred to Weston, unless they request another carrier, and 6) subscribers with a PIC freeze on their account will be allowed to contact the LEC to arrange for a new freeze.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.01, 364.337 and 364.603, Florida Statutes.

II. 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 IXCs.

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. This transaction between Weston and Easton will be transparent to subscribers, thereby causing no disruption of service. The customers will receive ample notification of the transfer and will have the opportunity to decide whether or not

ORDER NO. PSC-02-0289-PAA-TP
DOCKET NO. 020042-TP
PAGE 4

they wish to maintain their already established service or choose another carrier. 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 Weston's acquisition of certain of Easton's assets, including but not limited to, Easton's subscriber base and accounts receivable. 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 Joint Petition for waiver of Rule 25-4.118, Florida Administrative Code, to approve acquisition by Weston Telecommunications, LLC of certain assets of Easton Telecom Services, Inc. is hereby granted as set forth in the body of this Order. It is further

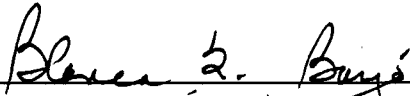
ORDERED that Attachment A is, by reference, incorporated in the body of this Order. It is further

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 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.

ORDER NO. PSC-02-0289-PAA-TP
DOCKET NO. 020042-TP
PAGE 5

By ORDER of the Florida Public Service Commission this 6th day
of March, 2002.



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

(S E A L)

LHD

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.

ORDER NO. PSC-02-0289-PAA-TP

DOCKET NO. 020042-TP

PAGE 6

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 March 27, 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.