

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition by AT&T Communications of the Southern States, LLC d/b/a AT&T, d/b/a Lucky Dog Phone Co., d/b/a ACC Business, d/b/a SmarTalk, d/b/a Unispeaksm Service, d/b/a www.prepaidserviceguide.com, d/b/a CONQUEST ("AT&T"), and AT&T Broadband Phone of Florida, LLC d/b/a AT&T Digital Phone ("AT&T Broadband") for waiver of carrier selection requirements in Rule 25-4.118, F.A.C., to facilitate transfer of certain long distance customers from AT&T to AT&T Broadband.

DOCKET NO. 020399-TI
ORDER NO. PSC-02-0826-PAA-TI
ISSUED: June 17, 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 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.

DOCUMENT NUMBER-DATE

06251 JUN 17 02

FPSC-COMMISSION CLERK

CASE BACKGROUND

On May 6, 2002, we received a joint petition from AT&T Communications of the Southern States, LLC d/b/a AT&T d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a www.prepaidserviceguide.com d/b/a CONQUEST (AT&T) and AT&T Broadband Phone of Florida, LLC d/b/a AT&T Digital Phone (AT&T Broadband) seeking a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, for the transfer of certain long distance customers from AT&T to AT&T Broadband due to corporate restructuring. In Docket No. 020258-TI, we approved the transfer of control of AT&T Broadband's interexchange telecommunications service (IXC) Certificate No. 7834 from AT&T Corp. to AT&T Comcast Corporation.

AT&T Broadband provides both local and long distance service. Certain AT&T Broadband customers have a package of local service in conjunction with AT&T long distance service. These services previously have been provided over the combined use of facilities of both AT&T and AT&T Broadband, and billing was provided on a single, integrated bill for all services. In anticipation of the corporate restructuring of AT&T Broadband and its ultimate transfer to AT&T Comcast Corporation, AT&T Broadband must separate from AT&T.

Customers obtaining local service from AT&T Broadband and certain long distance service from AT&T will be transferred to AT&T Broadband at comparable or lower rates, with no switching fees, no interruption of service, and billing on a single statement. Notice will be provided to all affected customers. Local AT&T Broadband customers who retain their AT&T long distance service or switch to another long distance company will no longer receive a single, integrated bill from AT&T Broadband.

There are no past due Regulatory Assessment Fees for AT&T or AT&T Broadband. We are vested with jurisdiction in this matter pursuant to Sections 364.337 and 364.603, Florida Statutes.

DISCUSSION

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 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.

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 attested that they have

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provided for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. The companies have further attested that their customers will receive ample notification of the transfer, and will 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, we believe that granting this waiver will avoid unnecessary slamming complaints during this transition.

Based on the foregoing, it is

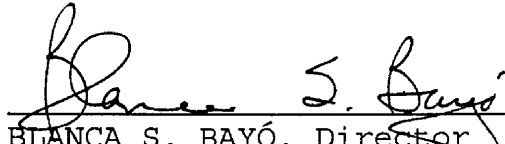
ORDERED by the Florida Public Service Commission that the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, are waived in this instance. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, 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 or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

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By ORDER of the Florida Public Service Commission this 17th
Day of June, 2002.



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

(S E A L)

CLF

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 Director, Division of

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the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 8, 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.