

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of TTI National, Inc. (holder of IXC Cert. No. 3159) for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., in connection with transfer of customers from PT-1 Communications, Inc. (holder of IXC Cert. No. 4432) and PT-1 Long Distance, Inc. (holder of IXC Cert. No. 7110) to TTI.

DOCKET NO. 020512-TI
ORDER NO. PSC-02-1017-PAA-TI
ISSUED: July 26, 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 APPROVING WAIVER OF RULE 25-4.118, F.A.C.
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.

On June 12, 2002, the Commission received a petition from TTI National, Inc. (TTI), a wholly-owned subsidiary of WorldCom, Inc., seeking a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, for the transfer of long distance customers from PT-1 Communications, Inc. and PT-1 Long Distance, Inc. (PT-1 collectively).

DOCUMENT NUMBER-DATE

07857 JUL 26 02

FPSC-COMMISSION CLERK

In March 2001, PT-1 filed for voluntary Chapter 11 Bankruptcy in the United States Bankruptcy Court for the District of New York. On March 7, 2002, an auction was held at which another subsidiary of WorldCom, Inc. bid for PT-1's assets, including the interexchange telecommunications service (IXC) customer accounts. The Bankruptcy Court entered an order authorizing the sale free and clear of all liens, claims and encumbrances, and transferable to TTI at closing. According to the petition TTI will provide duplicate services at the same rates that are currently provided by PT-1.

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

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.

However, 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 believe that in this instance it is in the public interest to waive the carrier selection requirements of Rule 25-4.118, Florida Administrative Code. TTI 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. We have reviewed the notices that will be sent to the PT-1 customers. The customers will receive ample notification of the transfer, and should 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.

Accordingly, we find that the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived in this instance.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that TTI National, Inc.'s petition for waiver of Rule 25-4.118, Florida Administrative Code, is granted. 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee,

ORDER NO. PSC-02-1017-PAA-TI
DOCKET NO. 020512-TI
PAGE 4

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 26th Day of July, 2002.

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
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.

ORDER NO. PSC-02-1017-PAA-TI
DOCKET NO. 020512-TI
PAGE 5

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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 16, 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.