

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by WorldxChange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., in transfer of IXC customers from Local Telcom Holdings, LLC to WorldxChange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communication Solutions.

DOCKET NO. 030314-TI  
ORDER NO. PSC-03-0783-PAA-TI  
ISSUED: July 2, 2003

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
RUDOLPH "RUDY" BRADLEY  
CHARLES M. DAVIDSON

NOTICE OF PROPOSED AGENCY ACTION ORDER APPROVING WAIVER OF THE CARRIER SELECTION REQUIREMENTS OF RULE 25-4.118, FLORIDA ADMINISTRATIVE CODE IN TRANSFER OF IXC CUSTOMERS

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 April 4, 2003, Swidler Berlin Shereff Friedman, LLP, on behalf of their clients, Worldxchange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions (holder of IXC Certificate No. 7570), petitioned for approval of an indirect acquisition of the Florida assets and customer base of

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Local Telcom Holdings, LLC and cancellation of Local Telcom Holdings, LLC IXC Certificate No. 7808. A petition for a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, was also included.

Pursuant to the purchase agreement, Local Telcom Holdings, LLC has agreed to sell all of its regulated Florida operations. As a result, all of the assets and the entire customer base will be transferred to WorldxChange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions.

The petition for a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, is handled in this docket, and the cancellation of Local Telcom Holdings, LLC's IXC Certificate No. 7808 will be handled in Docket No. 030523-TI.

There are no outstanding penalties, interest, or Regulatory Assessment Fees (RAFs) owed by WorldxChange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions. We are vested with jurisdiction in this matter pursuant to Section 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 (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 25-24.490, Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to IXCs. •

Rule 25-24.455(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.

WorldxChange Corp. d/b/a Acceris Communications Partners d/b/a Acceris Communications Solutions 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 notice that was sent to Local Telcom Holdings, LLC's customers and found it to be adequate. The customers 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, granting this waiver will avoid unnecessary slamming complaints during this transition.

Therefore, 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.

Based on the foregoing, it is

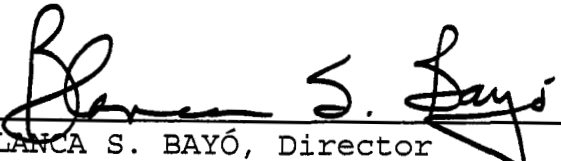
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ORDERED by the Florida Public Service Commission that the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, are waived in this instance. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective 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, 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 2nd Day of July, 2003.

  
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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.

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 July 23, 2003.

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.