

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to acquisition by Network US, Inc. d/b/a CA Affinity of all telecommunications assets, including customer accounts, of ConnectAmerica, Inc. in foreclosure sale; and acknowledgment of cancellation and removal from register of ConnectAmerica's Registration No. TJ012.

DOCKET NO. 040731-TI
ORDER NO. PSC-04-1040-PAA-TI
ISSUED: October 25, 2004

The following Commissioners participated in the disposition of this matter:

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

ORDER GRANTING WAIVER OF CARRIER SELECTION REQUIREMENTS

Case Background

On July 12, 2004, this Commission received a joint petition from Nowalsky, Bronston & Gothard, on behalf of their clients, Network US, Inc. d/b/a CA Affinity and ConnectAmerica, Inc., requesting approval for the waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, due to the purchase of ConnectAmerica, Inc.'s customer base and related assets by Network US, Inc. d/b/a CA Affinity.

This Commission is vested with jurisdiction in this matter pursuant to Section 364.603, Florida Statutes.

Analysis

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 . . . ;

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(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, states in part:

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) . . .

(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.

Network US, Inc. d/b/a CA Affinity 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. Our staff has reviewed the notice that was sent to ConnectAmerica, Inc.'s customers and found it to be adequate. The customers should not experience any interruption of service, rate increase, or switching fees.

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. 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 find that granting this waiver will avoid unnecessary slamming complaints during this transition.

ConnectAmerica, Inc. has informed our staff that the \$12.10 it owes for penalty and interest fees on its 2003 RAFs and its 2004 RAFs will be paid by the end of the year (December 31, 2004). Network US, Inc. d/b/a CA Affinity does not have any outstanding RAFs, penalties or interest.

Therefore, we find it appropriate that the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived in this instance and that ConnectAmerica's Registration No. TJ012 be cancelled and removed from the active register list of interexchange telecommunications companies in Florida.

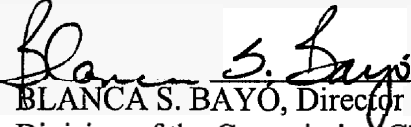
Based on the foregoing, it is

ORDERED that we hereby find it appropriate that the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived in this instance and that ConnectAmerica's Registration No. TJ012 be cancelled and removed from the active register list of interexchange telecommunications companies in Florida. 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 25th day of October, 2004.


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

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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 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 November 15, 2004.

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.