

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., to allow Sprint Communications Company, Limited Partnership to transfer competitive local exchange customers served via unbundled network element platform (UNE-P) to Trinsic Communications, Inc.

DOCKET NO. 050916-TP
ORDER NO. PSC-06-0112-PAA-TP
ISSUED: February 13, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING WAIVER OF THE CARRIER SELECTION REQUIREMENTS
OF RULE 25-4.118, F.A.C.

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. Case Background

On December 14, 2005, Sprint Communications Company, Limited Partnership (Sprint LP) and Trinsic Communications, Inc. (Trinsic), both competitive local exchange companies (CLECs) and intrastate interexchange companies (IXCs), submitted a joint request for a waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code. The purpose of filing for the waiver is to allow Sprint to transfer its customers that are currently provided service via the unbundled network element platform (UNE-P) to Trinsic without Trinsic having to obtain each customer's authorization. The Sprint CLEC UNE-P customers have Sprint IXC service bundled with their local plan. After the transfer, customers will receive bundled CLEC and IXC services from Trinsic.

Without this waiver, Trinsic would be required to obtain signed letters of agency (LOAs) or third party verifications (TPVs) from each customer being transferred prior to providing service to protect itself from possible complaints of unauthorized carrier changes. In that case,

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customers for whom Trinsic did not have valid LOAs or TPVs prior to the transfer would be subject to a loss of service on the date of transfer. Thus, this Order addresses the waiver of Rule 25-4.118, Florida Administrative Code, for both local and intrastate interexchange telecommunications services.

We are vested with jurisdiction in this matter pursuant to Sections 364.02, 364.336, 364.337, and 364.603, Florida Statutes.

II. 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 . . . ;
- (c) A firm that is independent and unaffiliated with the provider . . . has verified the customer's requested change . . .

Pursuant to Rule 25-24.475(3), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to IXCs.

Rule 25-24.455(2), Florida Administrative Code, states:

An IXC may petition for a waiver of any provision of this Part. The waiver shall be granted in whole, granted in Part or denied based on the following:

- (a) The factors enumerated in Section 364.337(4), Florida 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;
- (c) Alternative regulatory requirements for the company which may serve the purposes of this part; and
- (d) Whether the waiver is in the public interest.

Pursuant to Rule 25-24.845, Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to CLECs.

Section 364.337(2), Florida Statutes, states in pertinent part;

A certificated competitive local exchange telecommunications company may petition the commission for a waiver of some or all

of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The commission may grant such petition if determined to be in the public interest.

The authority for Rule 25-4.118, Florida Administrative Code, is found in Section 364.603, Florida Statutes, which is a section this Commission is authorized to waive.

Trinsic has attested that it will provide for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. The customers should not experience any interruption of service, rate increase, or switching fees.

In addition, Trinsic stated in its sample letter to customers that it will be responsible for any outstanding complaints from the affected former Sprint LP customers after the date of the transfer.

Further, neither Sprint LP nor Trinsic has any outstanding regulatory assessment fees, penalties or interest associated with its IXC registration or CLEC certification.

We find that in this instance it is appropriate 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 local and long distance services. Furthermore, granting this waiver will avoid unnecessary slamming complaints during this transition.

III. Decision

Accordingly, we hereby approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of Sprint LP's customers, served via unbundled network element platform, to Trinsic.

If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of this Order, this docket shall close upon the issuance of a consummating order.

Based upon the forgoing, 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 for Sprint Communications Company, Limited Partnership and Trinsic Communications, Inc. It is further

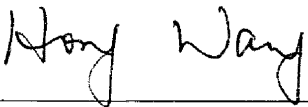
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission 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 if no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one (21) days of the issuance of this Order, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 13th day of February, 2006.

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

By: 

Hong Wang, Supervisor
Case Management Review Section

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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.

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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 6, 2006.

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.