

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint application for approval of pro forma reorganization whereby OnFiber Carrier Services, Inc., holder of CLEC Certificate No. 7521 and IXC Registration No. TJ391, will merge with and into Qwest Communications Corporation, holder of CLEC Certificate No. 5801 and IXC Registration No. TI215; request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C.; request for cancellation of CLEC Certificate No. 7521 and IXC tariff and Registration No. TJ391; and request for other necessary relief.

DOCKET NO. 070335-TP
ORDER NO. PSC-07-0613-PAA-TP
ISSUED: July 31, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

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 May 24, 2007, OnFiber Carrier Services, Inc. (OCS) and Qwest Communications Corporation (QCC), both competitive local exchange telecommunications companies (CLECs) and intrastate interexchange companies (IXCs), submitted a joint request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.02, 364.336, 364.337, and 364.603, Florida Statutes (2007).

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

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 in pertinent part 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

QCC has stated that OCS is merging with QCC and QCC is acquiring 21 business customers currently served by OCS. QCC has stated that it seeks the waiver so that it will not have to obtain authorization from each customer. With the waiver, QCC can protect itself from possible complaints of unauthorized carrier changes (slamming). Customers will benefit because they will not be subject to a possible loss of service during the transfer, for if prior authorization is required in this process, customers may be disconnected should they fail to take required action.

QCC has stated 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. We have reviewed the notice that will be sent to OCS' customers and found it adequate. The customers should not experience any interruption of service, rate increase, or switching fees. QCC has additionally stated that it would be responsible for resolving any outstanding complaints from OCS customers should any arise. To date, the Commission has received no customer complaints against OCS for local or long distance service.

In accordance with our authority under Sections 364.02, 364.336, 364.337, and 364.603, Florida Statutes, we have reviewed the joint request for waiver of Rule 25-4.118, Florida Administrative Code by OCS and QCC, and find it appropriate to approve the waiver. We have based our review and decision upon an analysis of the public's interest in efficient, reliable telecommunications service.

OCS also requested that its IXC registration and CLEC certificate be canceled upon completion of the transaction. QCC stated in its petition that it would be responsible for OCS's 2007 IXC and CLEC regulatory assessment fees upon cancellation of OCS's IXC Registration No. TJ391 and CLEC Certificate No. 7521. We emphasize that this order addresses only the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, for the transfer of customers served pursuant to each certificate/registration. Under Commission rules, cancellation of the IXC registration and CLEC certificate may be handled administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that OnFiber Carrier Services, Inc. and Qwest Communications Corporation's request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of OnFiber Carrier Services, Inc.'s customers to Qwest Communications Corporation is hereby approved. 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 Commission Clerk, 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, the merger transaction is complete, and CLEC Certificate No. 752 and IXC Registration No. TJ391 have been canceled, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 31st day of July, 2007.



ANN COLE
Commission Clerk

(S E A L)

HFM

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 21, 2007.

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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.