

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Compliance investigation of NETECOM, Inc. for apparent violation of Rules 25-24.470, F.A.C., Registration Required. DOCKET NO. 070050-TI

In re: Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to customer transfer arrangement between Telenational Communications, Inc. and NETECOM Communications, Inc. DOCKET NO. 070569-TI  
ORDER NO. PSC-07-0825-AS-TI  
ISSUED: October 15, 2007

ORDER ACCEPTING SETTLEMENT OFFER  
AND GRANTING RULE WAIVER OF 25-4.118, FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

**I. Case Background**

On October 13, 2006, we received a customer complaint against NETECOM, Inc. (NETECOM) regarding an unauthorized switch of long distance services. After receiving the complaint, our staff determined that NETECOM was not registered and had not filed a tariff with this Commission. Several attempts were made to contact the company, but the company never responded. However, the company did resolve the customer's complaint at a later date. On January 16, 2007, Docket No. 070050-TI was opened against NETECOM for its apparent violation of Rule 25-24.470, Florida Administrative Code (F.A.C.), Registration Required.

Per Order No. PSC-0278-PAA-TI, issued April 2, 2007, this Commission imposed a penalty in the amount of \$25,000 against NETECOM for its apparent violation of Rule 25-24.470, F.A.C., Registration Required. On April 23, 2007, the order was protested. On July 6, 2007, NETECOM submitted a proposed settlement offer.

As part of NETECOM's proposed settlement offer, the company proposed to transfer all of its customers to Telenational Communications, Inc. (TNC), IXC Registration No. TJ660. On August 23, 2007, TNC filed a request for a waiver of the carrier selection requirements of Rule 25-4.118, F.A.C. Docket No. 070569-TI, was established to address the waiver request.

We are vested with jurisdiction over this matter pursuant to Sections 364.02, 364.04, and 364.285, and 364.603, Florida Statutes (F.S.).

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## II. Analysis

### A. Settlement Offer

On July 6, 2007, NETECOM proposed a settlement offer to resolve the company's apparent violation of Rule 25-24.470, F.A.C. NETECOM currently provides intrastate interexchange telecommunications (IXC) services to 143 customers in Florida. However, the company did not register as an IXC with this Commission or file a tariff as required by Rule 25-24.470, F. A. C. To resolve the matter, NETECOM has proposed the following:

1. Cease operating as an IXC in Florida.
2. Transfer all customers to Telenational Communications, Inc. (IXC Registration No. TJ660).
3. Notify all customers via letter of the transfer.

The customer letter was reviewed and found adequate by our staff. Further, NETECOM will provide a report by October 25, 2007, confirming that the company is no longer providing telecommunications services in Florida. NETECOM is aware that in the future if the company elects to provide intrastate interexchange telecommunications services in Florida and fails to register and file a tariff with this Commission, it will be subject to penalties pursuant to Section 364.285, F.S.

### B. Waiver of 25-4.118, F.A.C.

Pursuant to Rule 25-4.118, F.A.C., a customer's carrier cannot be changed without the customer's authorization. Rule 25-4.118(2), F.A.C., 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), F.A.C., Rule 25-4.118, F.A.C., is incorporated into Chapter 25-24, and applies to IXCs.

Rule 25-24.455(2), F.A.C., 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.

The authority for Rule 25-4.118, F.A.C., is found in Section 364.603, F.S., which is a section this Commission is authorized to waive.

As part of NETECOM's proposed settlement offer, the company agreed to transfer all of its customers to TNC. This waiver is being sought to provide notice of the transfer for the treatment of customers in a consumer-friendly manner and allows for a transition to occur in a smooth process protecting both the consumer and the company. Without this waiver, TNC would be required to obtain signed letters of authorization (LOAs) or third party verifications (TPVs) from each customer being transferred. With the waiver, TNC can protect itself from possible complaints of unauthorized carrier changes. This waiver is also beneficial to the customers as they will not be subject to a loss of service on the date of transfer. TNC has attested that it will provide for a seamless transition while ensuring that the affected customers will continue to receive the same services and rates that the customers currently receive from NETECOM.

Currently, NETECOM has no outstanding customer complaints. If customer complaints are filed against NETECOM and are not resolved prior to the transaction, TNC has stated that it will resolve all of the outstanding complaints. TNC does not have any outstanding regulatory assessment fees, penalties or interest associated with its IXC registration.

### **III. Decision**

#### **A. Settlement Offer**

NETECOM's proposed settlement offer is consistent with settlement offers that this Commission has approved in similar dockets. In Docket No. 030964-TI, In Re: Compliance investigation of Tel-Tec, Inc. for apparent violation of Section 364.02, Florida Statutes, Definitions, and Section 364.04, Florida Statutes, Schedules of Rates, Tolls, Rentals, Contracts, and Charges; Filing; Public Inspection, we accepted the company's proposed settlement offer to discontinue providing intrastate interexchange telecommunications services in Florida in lieu of paying the \$25,000 penalty that was imposed against the company for failure to register and file a tariff with this Commission. Because NETECOM's offer is consistent, we find it appropriate to accept NETECOM, Inc.'s proposed settlement offer to cease providing intrastate interexchange telecommunications services in Florida and to transfer all of its current customers to Telenational Communications, Inc.

B. Waiver of 25-4.118, F.A.C.

We find that in this instance, it is in the public interest to waive the carrier selection requirements of Rule 25-4.118, F.A.C. 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. Therefore, we find it appropriate to approve the waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., in the transfer of customers from NETECOM to TNC.

This docket shall remain open until verification that NETECOM is no longer providing intrastate interexchange telecommunications services in Florida. NETECOM must submit a report to our staff by October 25, 2007, confirming that the company has ceased operating in Florida and has transferred all of its customers to TNC. If determined that NETECOM has complied with the provisions of this Order, then this docket shall be closed administratively. If NETECOM fails to demonstrate that it has complied with the provisions of this Order, then Order No. PSC-07-0278-PAA-TI, will become final and effective upon issuance of a Consummating Order, and the \$25,000 penalty will be assessed payable to this Commission. If the company fails to pay the penalty, it will be forwarded to the Department of Financial Services for further collection efforts. If the penalty is forwarded to the Department of Financial Services, this docket shall be closed administratively.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that NETECOM, Inc.'s proposed settlement offer to cease providing intrastate interexchange telecommunications services in Florida and to transfer all of its current customers to Telenational Communications, Inc., be accepted. It is further

ORDERED that Telenational Communications Inc.'s request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C., be approved. It is further

ORDERED that this docket shall remain open until verification that NETECOM is no longer providing intrastate interexchange telecommunications services in Florida. It is further

ORDERED that NETECOM, Inc must submit a report by October 25, 2007, confirming that the company has ceased operating in Florida and has transferred all of its customers to Telenational Communications Inc. It is further

ORDERED that if NETECOM, Inc. has complied with the provisions of this Order, then this docket shall be closed administratively. It is further

ORDERED that if NETECOM, Inc. fails to demonstrate that it has complied with the provisions of this Order, then Order No. PSC-07-0278-PAA-TI, will become final and effective upon issuance of a Consummating Order, and the \$25,000 penalty will be assessed payable to this Commission. If the company fails to pay the penalty, it will be forwarded to the Department of Financial Services for further collection efforts. If the penalty is forwarded to the Department of Financial Services, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 15th day of October, 2007.



ANN COLE  
Commission Clerk

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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 or judicial review of Commission orders that is available under Sections 120.57 or 120.68, 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 or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.