



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: MARCH 4, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BA)

FROM: DIVISION OF COMMUNICATIONS (WILLIAMS) *W*
 Division OF LEGAL SERVICES (MILLER) *MB* *JM*

RE: DOCKET NO. 990027-TI - REQUEST FOR WAIVER OF RULE 25-24.490(2), F.A.C., BOND REQUIREMENT, BY ALLNET COMMUNICATIONS SERVICES, INC. D/B/A FRONTIER COMMUNICATIONS SERVICES.

AGENDA: 03/16/99 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: MARCH 28, 1999, END OF 90 DAY LIMIT.

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\990027.RCM

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CASE BACKGROUND

On December 28, 1998, this Commission received an application from Allnet Communications Services, Inc. d/b/a Frontier Communications Services (Frontier) seeking a waiver of Rule 25-24.490(2), Florida Administrative Code. The rule requires that a company maintain on file with the Commission a bond covering its current balance of deposits and advance payments from its customers.

Frontier's Petition for Waiver of Bond Requirement was filed on December 28, 1998. The Notice of Petition of Waiver of Bond Requirement was submitted to the Secretary of State for publication in the Florida Administrative Weekly on February 2, 1999. The comment period ended on February 18, 1999, and no comments were submitted.

DOCUMENT NUMBER-DATE

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The Commission has addressed several bond waiver petitions in the past, and has approved or denied them based on the financial data provided by the petitioning interexchange telecommunications carrier. As explained below, staff recommends that Frontier be granted the waiver from Rule 25-24.490(2), Florida Administrative Code.

DISCUSSION OF ISSUES

ISSUE 1: Should Allnet Communications Services, Inc. d/b/a Frontier Communications Services (Frontier) be granted a waiver of Rule 25-24.490(2), Florida Administrative Code?

RECOMMENDATION: Yes. Allnet Communications Services, Inc. d/b/a Frontier Communications Services (Frontier) should be granted a waiver of Rule 25-24.490(2), Florida Administrative Code. (Miller)

STAFF ANALYSIS: Rule 25-24.490(2), Florida Administrative Code,, Customer Relations; Rules Incorporated, states as follows:

An interexchange company may require a deposit as a condition of service and may collect advance payments for more than one month of service if it maintains on file with the Commission a bond covering its current balance of deposits and advance payments (for more than one month's service). A company may apply to the Commission for a waiver of the bond requirement by demonstrating that it possesses the financial resources and income to provide assurance of continued operation under its certificate over the long term.

Staff believes that the company has demonstrated adequate financial resources and income to assure the longevity of its operations.

In addition to meeting the requirements of Rule 25-24.490(2), Florida Administrative Code, for waiver of the bond requirement, Frontier's petition for waiver must also meet the requirements of Chapter 120.542, Florida Statutes. Under this statutory

requirement, a petitioner requesting a waiver of a Commission rule must first demonstrate that the purpose of the underlying statute will otherwise be served if waiver of the rule is granted. Secondly, the petitioner must demonstrate that continued enforcement of the rule would result in substantial hardship for the petitioner or violate principles of fairness.

Staff believes that Frontier's petition meets the requirements of Chapter 120.542, Florida Statutes. First, the petitioner has demonstrated that the pro-consumer, public interest purposes of Chapter 364.03 and 364.337, Florida Statutes, underlying Rule 25-24.490(2), Florida Administrative Code, will be served if the Commission grants the waiver request. Frontier has demonstrated that a bond is not necessary to protect consumers' interests in this situation because of its substantial financial resources and overall stability.

Secondly, the company has demonstrated that the Commission's enforcement of the bond requirement would result in substantial economic hardship for the company. Enforcement of the bond requirement would force Frontier to invest a great amount of money in a bond and its associated expenses. Given Frontier's financial stability and size, the posting of a bond is not necessary to protect the public interest. Accordingly, staff recommends that Frontier's waiver petition be granted.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: If no person whose substantial interests are affected by the Commission's Proposed Agency Action, files a protest within 21 days of the issuance date of the order, this docket should be closed. (Millier)

STAFF ANALYSIS: This docket should be closed, if no person whose substantial interests are affected by the Commission's Proposed Agency Action, files a protest within 21 days of the issuance date of the order.