



Public Service Commission

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RECORDS AND REPORTING

DATE: MARCH 23, 2000

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

FROM: DIVISION OF TELECOMMUNICATIONS (PRUITT) *PR*
DIVISION OF LEGAL SERVICES (FORDHAM) *C.F.F.*
DIVISION OF AUDITING AND FINANCIAL ANALYSIS (LESTER) *PL*

ALM

RE: DOCKET NO. 000080-TI - REQUEST FOR WAIVER OF RULES AND REQUIREMENTS TO ALLOW DEPOSIT REQUIREMENT IN LONG DISTANCE TARIFF BY ITC^DELTACOM COMMUNICATIONS, INC. D/B/A ITC^DELTACOM.

AGENDA: 04/04/00 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMU\WP\000080.RCM

CASE BACKGROUND

On January 24, 2000, this Commission received a petition seeking a waiver of the bond requirements of Rule 25-24.490(2), Florida Administrative Code, from ITC^DeltaCom Communications, Inc. d/b/a ITC^DeltaCom (ITC). The basis for seeking a waiver is set forth in the rule itself. The rule requires that a company maintain on file with the Commission a bond covering its current balance of deposits and advanced payments from its customers. In the alternative, the Commission may waive the bond requirement if the company demonstrates that it possesses the financial resources and income to provide assurance of continued operation under its certificate over the long run.

A notice of Petition for Waiver of Bond Requirement was submitted to the Secretary of State for publication in the Florida Administrative Weekly on February 9, 2000. The comment period ended on March 3, 2000, and no comments were submitted.

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RECORDS AND REPORTING

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.

DISCUSSION OF ISSUES

ISSUE 1: Should ITC be relieved of the bond requirements of Rule 25-24.490(2), Florida Administrative Code, as provided for in the rule?

RECOMMENDATION: Yes. (Pruitt)

STAFF ANALYSIS:

Rule 25-24.490(2), Florida Administrative Code, provides two alternatives for the protection of the IXC's and consumers. The first alternative is a bond, and the second alternative, to be approved by the Commission, is a showing of fiscal responsibility. ITC is requesting in this Petition that the Commission approve the second of the alternatives for them.

Rule 25-24.490(2), Florida Administrative Code, states as follows:

An interexchange company may require a deposit as a condition of service and may collect advanced 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 advanced 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 ITC's liquidity and ability to raise funds in the public capital markets are adequate to demonstrate that it has the financial means to continue operations over the long term. Accordingly, staff recommends that the bond requirement in Rule 25-24.490(2), Florida Administrative Code, be waived for ITC.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon issuance of a Consummating Order unless a person whose substantial interests are affected by the Commission's decision files a protest within 21 days of the issuance of the proposed agency action order. (Fordham)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 is approved or denied, the result will be a proposed agency action order. If no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.