



Public Service Commission

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RECORDS AND REPORTING
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DATE: JANUARY 4, 2001

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

FROM: DIVISION OF REGULATORY OVERSIGHT (T.WILLIAMS)
DIVISION OF LEGAL SERVICES (ELLIOTT) *JAE C.S.F. B. R. Am*

RE: DOCKET NO. 001518-TI - REQUEST FOR APPROVAL OF ZONE TELECOM, INC., INDIRECT WHOLLY OWNED SUBSIDIARY OF e-KING GROUP LIMITED, TO ACQUIRE SELECTED ASSETS OF THE FURST GROUP, INC. (HOLDER OF IXC CERTIFICATE NO. 3171), AND REQUEST FOR VARIANCE OR WAIVER OF RULES.

AGENDA: 01/16/01 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE - PROPOSED AGENCY ACTION

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RG0\WP\001518.RCM

CASE BACKGROUND

On October 2, 2000, this Commission received a request from Zone Telecom, Inc. (Zone) and The Furst Group, Inc. (TFG) seeking approval for sale of selected assets of The Furst Group, Inc. and a waiver of Rule 25-4.118, Florida Administrative Code, which precludes a change in a customer's presubscribed toll service provider without the customer's prior authorization.

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00194 JAN-40

FPSC-RECORDS/REPORTING

DISCUSSION OF ISSUES

ISSUE 1: Should Zone Telecom, Inc.'s request for approval to acquire selected assets from The Furst Group, Inc. be approved?

RECOMMENDATION: Yes. (Williams)

STAFF ANALYSIS: Zone plans to acquire certain assets of TFG for the purpose of providing retail and resold interLATA and some intraLATA long distance services to residential and business customers. The proposed transfer of assets includes the customer base and the additional assets being purchased are related to customer service and billing. Zone states that the transfer will facilitate competition in the provision of a variety of telecommunications services in Florida. Further, the company asserts that the transfer will serve the public interest in contributing to the full utilization of existing interexchange telecommunication facilities.

The companies have taken steps to ensure that the proposed transfer will have no material adverse impact on consumers in Florida. In its application, Zone states its intention to provide notice to the customers of the transfer and of their options subsequent to the Commission's approval of this transfer. Zone intends to provide customers 30 days' notice of the transfer and, in compliance with the FCC requirements to notify customers that: (1) a change in carrier is taking place (2) the carrier change will not result in any changes to the customer, (3) the customer has the right to change the customer's presubscribed long distance carrier if desired at no charge, and (4) a toll free number will be provided for any questions. Moreover, the interexchange service will continue to be provided over the same facilities and infrastructure currently being used. In addition, customer service will continue to be provided on a 24 hours a day, seven days a week schedule. Accordingly, staff recommends that the request for acquisition of selected assets of The Furst Group, Inc. be approved.

Staff notes that Zone Telecom, Inc.'s application for a Interexchange Telecommunications Company Certificate (IXC) was approved at the December 19, 2000 Agenda Conference. The Furst Group, Inc. has not applied for cancellation of its certificate at this time.

The Commission is vested with jurisdiction over the matter through the provision of Sections 364.33, Florida Statutes. Accordingly, staff believes the recommendation is appropriate.

ISSUE 2: Should Zone Telecom, Inc. be relieved in this instance of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes. (Elliott)

STAFF ANALYSIS: Pursuant to Rule 25-4.118(1), Florida Administrative Code, the provider of a customer shall not be changed without the customer's authorization. Rule 25-4.118(2) Florida Administrative Code, provides that an IXC shall submit a change request only if one of the following has occurred:

(a) The provider has a letter of agency from the customer requesting the change.

(b) The provider has received a customer-initiated call for service.

(c) A third party firm has verified the customer's requested change.

As stated in Rule 25-24.455(4), Florida Administrative Code, the Commission may grant a waiver to the extent that it determines that it is consistent with the public interest to do so. Further, the Commission may grant the petition in whole or part, may limit the waiver to certain geographic areas and/or may impose reasonable alternative regulatory requirements on the petitioning company.

Staff believes that in this instance it is in the public interest to waive the carrier selection requirements of Rule 25-4.118, Florida Administrative Code. The companies have provided for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. As stated in the application, the customers will receive ample notification of the transfer and have the opportunity to participate or change to another carrier at no cost to the customer. If prior authorization is required in this event, customers may fail to respond to a request for

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authorization, neglect to select another carrier, and lose their long distance service. Furthermore, Staff believes that granting this waiver will avoid unnecessary slamming complaints during this transition. Accordingly, staff recommends that the interexchange carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived for the Zone Telecom, Inc's consolidation.

The Commission has approved a similar request in Docket No. 001541-TI, at the request of MCI.

ISSUE 3: 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 upon the issuance of a consummating order. (Elliott)

STAFF ANALYSIS: This docket should be closed upon the issuance of a consummating order, 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.