



Public Service Commission
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COMMISSION CLERK

DATE: DECEMBER 5, 2001

TO: DIRECTOR, DIVISION OF THE COMMISSION
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF REGULATORY OVERSIGHT (T. MCCOY)
DIVISION OF LEGAL SERVICES (J. ELLIOT)

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JAE
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RE: DOCKET NO. 011400-TI - PETITION BY MCI WORLDCOM
COMMUNICATIONS, INC. FOR WAIVER OF RULE 25-4.118, F.A.C.,
INTEREXCHANGE CARRIER SELECTION FOR TRANSFER OF CUSTOMER
BASE OF INTERMEDIA COMMUNICATIONS, INC. TO MCI WORLDCOM
COMMUNICATIONS, INC.

AGENDA: 12/17/01 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RGO\WP\011400.RCM

CASE BACKGROUND

On October 29, 2001, this Commission received a petition seeking a waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from MCI WorldCom Communications, Inc. (MCI WorldCom). MCI WorldCom is a certificated interexchange carrier (IXC) operating in Florida. The company informed the Commission that they will be transferring the long distance voice customers of Intermedia Communications Inc. (Intermedia), Certificate No. 1565.

The basis for seeking a waiver is set forth in Rule 25-24.455(4), Florida Administrative Code. The Commission may consider whether the petition is in the public interest, whether market forces obviate the need for the provision in a particular instance, and whether reasonable alternative regulatory methods may

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serve the same purpose. Rule 25-24.490, Florida Administrative Code, makes this waiver provision applicable by incorporating Rule 25-4.118, Florida Administrative Code, under Chapter 25-24, Florida Administrative Code.

On October 23, 2000, Intermedia and WorldCom, Inc. (the parent company of MCI WorldCom) filed with the Commission an application for transfer of control from Intermedia to WorldCom, Inc. That transfer was approved by the Commission in Order No. PSC-00-2435-PAA-TP issued December 19, 2000, and the approval became final with the issuance of Consummating Order No. PSC-01-0105-CO-TP on January 17, 2001. The transfer of control was subsequently consummated on July 1, 2001, when Intermedia became a wholly-owned subsidiary of WorldCom, Inc. As part of this consolidation, long distance customers currently served by Intermedia will be transferred to MCI WorldCom. This transfer will take place in two stages. Business customers will be transferred first, followed by residential customers.

MCI WorldCom has informed the Commission that a notification to business customers will be accomplished by mailing a letter attached hereto as Attachment A. A similar letter will be prepared for the subsequent transfer of residential customers. The letter to Intermedia's long distance voice customers notifies them of the upcoming transfer to MCI WorldCom, and the terms and conditions, with no switching fees and no interruption of service. The business and residential customers will also be notified that they are free to change carriers if they are not satisfied and there will be no termination penalties. MCI WorldCom intends to file tariff revisions with the Commission for any special promotions related to the customers affected by this transfer, once Commission approval has been issued.

The Commission has previously granted an identical request by PNG Telecommunications in Docket 000364-TI.

DISCUSSION OF ISSUES

ISSUE 1: Should MCI WorldCom be relieved in this instance of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes. (McCoy)

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.

Rule 25-24.455(4), Florida Administrative Code, states as follows:

An interexchange company may petition for a waiver of any provision of this Part. The Commission may grant a waiver to the extent that it determines that it is consistent with the public interest to do so. 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. In disposing of a petition, the Commission may consider:

- (a) The factors enumerated in Section 364.337(2), FL. Statutes; [Now found in Section 364.337(4), F.S., 1999.]
- (b) The extent to which competitive forces may serve the same function as, or obviate the necessity for, the provision sought to be waived; and

(c) Alternative regulatory requirements for the company which may serve the purposes of this Part.

Pursuant to Rule 25-24.490, Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to IXCs.

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 provided for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. The customers received ample notification of the transfer and had the opportunity not to participate. 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, 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 MCI WorldCom's transfer of Intermedia's customer accounts.

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. (Elliott)

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.



October 30, 2001

Name
Address 1
Address 2
City, State ZIP

Dear Valued Customer,

Welcome to WorldCom! Now that merger activities between your current long distance provider, Intermedia Communications, and WorldCom are complete, we look forward to meeting your business communication needs and welcoming you to the WorldComSM family. As a WorldCom customer, your business will be among hundreds of thousands around the globe who rely on WorldCom to provide world-class communication services to help them succeed and thrive in today's business environment.

Our goal is to ensure that you receive the highest level of service at the greatest value. We will initiate the process of migrating your long distance service to the WorldCom network no sooner than December 1, 2001. If you remain with WorldCom for one full year, you will receive one free month of long distance usage. No immediate action is required on your part.

You are under no obligation to use WorldCom services. Should you prefer an alternate carrier, we request that you contact that carrier before December 1, 2001. For your convenience, we've enclosed WorldCom's rate information and service options. If you have any questions regarding this transition or WorldCom services, please don't hesitate to contact our Customer Service team at 1-800-792-7260.

Again, it is our pleasure to welcome you to WorldCom. With network facilities in more than 65 countries and local service available in more than 100 cities, WorldCom has the scale and resources to deliver all the services your business needs – from long distance and local to conferencing, data, Internet services and more. We look forward to serving you!

Sincerely,

Kenneth Tebbetts
Director of Customer Service

Additional Transition Enclosure Information:

The transition to WorldCom will occur no sooner than December 1, 2001. This transition will occur regardless of any freeze you may have placed on your account. Account freezes will be lifted to permit the WorldCom transition. Please contact your local phone company if you wish to establish new freezes.

Your WorldCom state-to-state long distance rate will begin at \$0.059 (less than six cents) per minute. Should rates or terms and conditions change at any time, we will inform you by bill notification or other means, including updates to WorldCom's Service Publication and Price Guide published on our website at www.worldcom.com. Local phone companies may apply a small charge to administer the transition of your long distance service. We will credit such charges for customers transitioning to WorldCom, although credits may not appear on your initial local phone bill.

Enclosure

Exhibit A