

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
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DATE: JANUARY 10, 2002
TO: DIRECTOR, DIVISION OF COMMISSION CLERK AND ADMINISTRATIVE SERVICES (BAYÓ)
FROM: DIVISION OF REGULATORY OVERSIGHT (T. MCCOY) *SM PPO*
DIVISION OF LEGAL SERVICES (J. ELLIOTT) *JAE 2/2*
RE: DOCKET NO. 011208-TI - JOINT APPLICATION FOR TRANSFER OF SELECTED ASSETS, INCLUDING CUSTOMER BASE, FROM AS TELECOMMUNICATIONS, INC. (HOLDER OF IXC CERTIFICATE NO. 3510) TO ONESTAR LONG DISTANCE, INC. (HOLDER OF IXC CERTIFICATE NO. 6042), FOR CANCELLATION OF CERTIFICATE NO. 3510 AND REQUEST FOR WAIVER OF RULE 25-4.118, F.A.C., INTEREXCHANGE CARRIER SELECTION.

01/22/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\RG0\WP\011208.RCM

CASE BACKGROUND

On September 19, 2001, this Commission received a joint application for the transfer of selected assets, including the customer base, along with a cancellation request of IXC Certificate No. 3510, and a request for waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from AS Telecommunications, Inc. and OneStar Long Distance, Inc. OneStar Long Distance, Inc. (OneStar) is a certificated interexchange carrier (IXC), Certificate No. 6042, operating in Florida, who has agreed to purchase the customer accounts of AS Telecommunications, Inc. (AS) AS is certificated as an IXC switchless reseller, Certificate No. 3510, also operating in

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Florida. The accounts to be acquired by OneStar are comprised of all customers that have selected AS as their preferred carrier for long distance services.

The Parties anticipate that the transfer will result in a company better equipped to accelerate its growth as a competitive telecommunications service provider. The transfer will allow the customer base of AS access to expanded services with OneStar, a more financially viable carrier. Once the requested transactions are complete, AS has requested that its IXC Certificate No. 3510 be cancelled.

The basis for seeking a waiver is set forth in Rule 25-24.455(4), Florida Administrative Code. The Commission may consider whether the request 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 serve the same purpose. Because Rule 25-24.490, Florida Administrative Code, incorporates Rule 25-4.118, Florida Administrative Code, into the Commission's IXC rules, the waiver provisions of Rule 25-24.455(4), Florida Administrative Code, are applicable to Rule 25-4.118, Florida Administrative Code, as it applies to IXCs.

OneStar has informed staff that upon Commission approval of this request, it will send out a letter (Attachment A) to all affected customers notifying them of the following: the pending change of their carrier selection to OneStar Long Distance, Inc.; that there will be no charges associated with the change; that services will be provided at rates comparable to or lower than those charged by the current carrier; and that they have the option to select a different long distance provider if they prefer. The initial notification will also include a toll-free customer inquiry number and web site address that customers may call or research for more information.

The Commission is vested with jurisdiction over these matters pursuant to Sections 364.01, 364.337 and 364.603, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the transfer of select assets and customer base of AS Telecommunications, Inc. to OneStar Long Distance, Inc.

RECOMMENDATION: Yes. (T. McCoy)

STAFF ANALYSIS: As stated in the request, OneStar is a more financially viable telecommunications company. The customer base of AS will experience a relatively seamless transition and gain access to expanded services that are not currently offered by AS. Staff recommends that the Commission approve OneStar's request for the transfer of select assets and the customer base from AS to OneStar.

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

RECOMMENDATION: Yes. (T. McCoy)

STAFF ANALYSIS: Pursuant to Rule 25-4.118(1), Florida Administrative Code, a customer's service provider 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), Fla. 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. Thus, the waiver provisions of Rule 25-24.455(4), Florida Administrative Code, are applicable to Rule 25-4.118, Florida Administrative Code, as it 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 company has 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 will receive ample notification of the transfer and have the opportunity to choose another carrier. 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 customer accounts affected by OneStar Long Distance, Inc.'s purchase of the customer base of AS Telecommunications, Inc.

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ISSUE 3: Should AS Telecommunications, Inc., Certificate No. 3510 be cancelled when this docket is closed?

RECOMMENDATION: Yes, Certificate No. 3510 should be cancelled when this docket is 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.

(J. Elliott)

STAFF ANALYSIS: Whether staff's recommendation on Issue 1 and Issue 2 are 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.



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ATTACHMENT A

OneStar Long Distance, Inc.

AS Telecommunications, Inc.

We have some exciting news to share with you!

AS Telecommunications, Inc. has agreed to transfer its customer base to OneStar Long Distance, Inc. We would like to thank you for being a customer of AS Telecommunications and share with you some information regarding this transition to OneStar.

You're going to enjoy being a OneStar customer! OneStar is an integrated communications provider headquartered in Evansville, Indiana. Beginning in 1982, our product portfolio includes a full range of voice and data services for commercial and residential customers, while providing a single point of contact through a bundled billing concept.

OneStar can provide a variety of value-added services designed to save you money and provide additional conveniences for your home or business. We look forward to being your single contact for voice, video, data, Internet, hardware, as well as technical support and service.

This transfer of service requires no action on your part. The addition of AS Telecommunication's customers will integrate quickly into OneStar's structure, providing a smooth transition with no interruption of normal services. You should not incur PIC (Primary Interexchange Carrier) charges from your local telephone company as a result of this transition. Should any PIC related charges be incurred, please notify OneStar and your account will be credited accordingly.

Going forward, OneStar will provide your telecommunications services. After the date of transfer, OneStar will provide you the same great telecommunications services currently provided by AS Telecommunications, such as your long distance services (intrastate, interstate and international) and will continue to handle all aspects of your account.

OneStar offers excellent customer service and great rates. You will receive the same great rates that you currently enjoy. Your account will be subject to the fees, terms, and conditions as published on our website at www.onestarld.com. As we transition your account to OneStar's world-class network, you may receive your bill at a different time during the month. Be aware that it will have a different look and feel with the OneStar logo. Please also be aware that customers who have a PIC Freeze on their lines will also be transferred and will be contacted by a customer service representative in order to assist with the transfer. At your option, you may choose a carrier other than OneStar to provide your telecommunications services. If you choose another carrier, you may incur a one-time charge from your local telephone company to make the change.

OneStar's primary focus is consistent customer satisfaction! OneStar will work hard to continually exceed your expectations, now and in the future. You will soon be receiving a call from a OneStar customer service representative to assist you with additional product information, resolve open issues or concerns, and introduce new service offerings to you all while providing you the most professional customer service in the industry. Should you have any questions regarding this transition, please contact the Customer Service Department at 1-800-622-9664.

To find out more about OneStar, check out the web site at www.onestarld.com or call the Customer Service Department at 1-800-622-9664.

www.onestarld.com

OneStar Long Distance, Inc. • 7100 Eagle Crest Boulevard • Evansville • Indiana 47715