

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Enhanced  
Communications Network, Inc. for  
waiver of Rule 25-4.118, F.A.C.,  
Interexchange Carrier Selection,  
for purchase of customer base of  
Single Billing Services, Inc.

DOCKET NO. 011338-TP  
ORDER NO. PSC-02-0160-PAA-TP  
ISSUED: February 4, 2002

The following Commissioners participated in the disposition of  
this matter:

LILA A. JABER, Chairman  
J. TERRY DEASON  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI  
RUDOLPH "RUDY" BRADLEY

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING WAIVER OF RULE 25-4.118, FLORIDA  
ADMINISTRATIVE CODE, INTEREXCHANGE CARRIER SELECTION

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

On October 5, 2001, we received a petition seeking a waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from Enhanced Communications Network, Inc. (Enhanced Communications). Enhanced Communications is a certificated interexchange carrier (IXC), Certificate No. 5766, operating in Florida. Enhanced Communications has agreed to purchase certain customer accounts of Single Billing Services, Inc. d/b/a Asian American Association (SBS). SBS is certificated as an IXC switchless rebiller, Certificate No. 5732, also operating in Florida. The accounts to be acquired are comprised of all

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customers that have selected SBS as their preferred carrier for long distance services.

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.

The basis for seeking a waiver is set forth in Rule 25-24.455(4), Florida Administrative Code. We 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 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) are applicable to petitions for waiver of Rule 25-4.118, Florida Administrative Code, as it applies to IXCs.

Enhanced Communications has informed our staff that upon our approval of this petition, the transferring company will send out a letter to all affected customers notifying them of the following: the pending change of their carrier selection to Enhanced Communications Network, 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 that customers may call for more information.

We believe that in this instance it is in the public interest to waive the carrier selection requirements of Rule 25-4.118, Florida Administrative Code. Enhanced Communications has provided

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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, we believe that granting this waiver will avoid unnecessary slamming complaints during this transition.

Accordingly, we find it appropriate that the interexchange carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived for the customer accounts affected by Enhanced Communications Network, Inc.'s purchase of the wireline customer base of Single Billing Services, Inc. d/b/a Asian American Association. The Commission is vested with jurisdiction over these matters pursuant to Sections 364.01, 364.337 and 364.603, Florida Statutes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Enhanced Communications Network, Inc.'s petition for waiver of Rule 25-4.118, Florida Administrative Code, Interexchange Carrier Selection, is hereby granted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

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By ORDER of the Florida Public Service Commission this 4th day of February, 2002.

  
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BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on February 25, 2002.

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In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.