

State of Florida



Public Service Commission

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COMMISSION CLERK

DATE: MAY 30, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (PRUITT) ✓
OFFICE OF THE GENERAL COUNSEL (FORDHAM) ✓

RE: DOCKET NO. 020399-TI - JOINT PETITION BY AT&T COMMUNICATIONS OF THE SOUTHERN STATES, LLC D/B/A AT&T, D/B/A LUCKY DOG PHONE CO., D/B/A ACC BUSINESS, D/B/A SMARTALK, D/B/A UNISPEAKSM SERVICE, D/B/A WWW.PREPAIDSERVICEGUIDE.COM, D/B/A CONQUEST ("AT&T"), AND AT&T BROADBAND PHONE OF FLORIDA, LLC D/B/A AT&T DIGITAL PHONE ("AT&T BROADBAND") FOR WAIVER OF CARRIER SELECTION REQUIREMENTS IN RULE 25-4.118, F.A.C., TO FACILITATE TRANSFER OF CERTAIN LONG DISTANCE CUSTOMERS FROM AT&T TO AT&T BROADBAND.

AGENDA: 06/11/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020399.RCM

CASE BACKGROUND

On May 6, 2002, the Commission received a joint petition from AT&T Communications of the Southern States, LLC d/b/a AT&T d/b/a Lucky Dog Phone Co. d/b/a ACC Business d/b/a SmarTalk d/b/a Unispeaksm Service d/b/a www.prepaidserviceguide.com d/b/a CONQUEST (AT&T) and AT&T Broadband Phone of Florida, LLC d/b/a AT&T Digital Phone (AT&T Broadband) seeking a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, for the transfer of certain long distance customers from AT&T to AT&T Broadband due to corporate restructuring. In Docket No. 020258-

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TI, this Commission approved the transfer of control of AT&T Broadband's interexchange telecommunications service (IXC) Certificate No. 7834 from AT&T Corp. to AT&T Comcast Corporation.

AT&T Broadband provides both local and long distance service. Certain AT&T Broadband customers have a package of local service in conjunction with AT&T long distance service. These services previously have been provided over the combined use of facilities of both AT&T and AT&T Broadband, and billing was provided on a single, integrated bill for all services. In anticipation of the corporate restructuring of AT&T Broadband and its ultimate transfer to AT&T Comcast Corporation, AT&T Broadband must separate from AT&T.

Customers obtaining local service from AT&T Broadband and certain long distance service from AT&T will be transferred to AT&T Broadband at comparable or lower rates, with no switching fees, no interruption of service, and billing on a single statement. Notice will be provided to all affected customers. Local AT&T Broadband customers who retain their AT&T long distance service or switch to another long distance company will no longer receive a single, integrated bill from AT&T Broadband.

There are no past due Regulatory Assessment Fees for AT&T or AT&T Broadband. The Commission is vested with jurisdiction in this matter pursuant to Sections 364.337 and 364.603, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission relieve AT&T Broadband in this instance of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes. (Pruitt)

STAFF ANALYSIS: Pursuant to Rule 25-4.118(1), Florida Administrative Code, a customer's carrier cannot be changed without the customer's authorization. Rule 25-4.118(2), Florida Administrative Code, provides that a carrier 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.

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.

Rule 24-24.455(4), Florida Administrative Code, reads 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(4), Fla. Statutes;
- (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 may serve the purpose of this Part.

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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 attested that they have provided for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. The companies have further attested that their customers will receive ample notification of the transfer, and will not experience any interruption of service, rate increase, or switching fees.

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 carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived in this instance.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. **(Fordham)**

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.