

State of Florida



Public Service Commission  
CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED PSC  
JUL 11 AM 11:31  
COMMISSION CLERK  
B8888  
JAE

**DATE:** JULY 11, 2002  
**TO:** DIRECTOR, DIVISION OF THE COMMISSION  
ADMINISTRATIVE SERVICES (BAYÓ)  
**FROM:** DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (HAWKINS)  
OFFICE OF THE GENERAL COUNSEL (ELLIOTT)  
**RE:** DOCKET NO. 020106-TI - PETITION BY PNG TELECOMMUNICATIONS,  
INC. D/B/A POWERNET GLOBAL COMMUNICATIONS FOR LIMITED  
WAIVER OF IXC CARRIER SELECTION REQUIREMENTS IN RULE 25-  
4.118, FLORIDA ADMINISTRATIVE CODE  
**AGENDA:** 07/23/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -  
INTERESTED PERSONS MAY PARTICIPATE  
**CRITICAL DATES:** NONE  
**SPECIAL INSTRUCTIONS:** NONE  
**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\020106.RCM

CASE BACKGROUND

On February 8, 2002, this Commission received a petition seeking a waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from PNG Telecommunications, Inc. d/b/a PowerNet Global Communications (PNG). PNG is a certificated interexchange company (IXC) operating in Florida that has agreed to purchase the customer base of SONIX4U, Inc. (SONIX4U), on a cash basis; no assets or securities will be exchanged.

The petition states that during the week of January 10, 2002, PNG mailed a letter to all affected SONIX4U customers explaining the transfer and assuring them that the same quality long distance services they received in the past from SONIX4U will be provided at comparable or lower rates by PNG without interruption and without needed action on the part of the customers. The affected SONIX4U

DOCUMENT NO.  
07128-02  
7-11-02

DATE: JULY 11, 2002

customers were also reminded that they are under no obligation to take service from PNG and that they are free to select another company to transmit their long distance calls. A copy of the letter that was sent to affected customers is included with this recommendation as Attachment A. The petition states that the transfer was done February 23, 2002. However, staff notes that there have been no slamming complaints involving the transition of customers from SONIX4U to PNG.

Several petitions have been filed at the Commission wherein a certificated company has made the request to purchase the customer base of another certificated company and sought a waiver of the interexchange carrier selection rules. The Commission has granted previous requests in Order Nos. PSC-00-1090-PAA-TI issued June 6, 2000; PSC-01-0050-PAA-TI, issued January 8, 2001 and PSC-02-0017-PAA-TI, issued January 28, 2002.

The Commission is vested with jurisdiction in these matters pursuant to Sections 364.01, 364.337 and 364.603, Florida Statutes. Furthermore, staff believes this request should be granted.

#### **DISCUSSION OF ISSUES**

**ISSUE 1:** Should PNG Telecommunications, Inc. d/b/a PowerNet Global Communications be relieved in this instance of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code?

**RECOMMENDATION:** Yes. PNG Telecommunications, Inc. d/b/a PowerNet Global Communications should be relieved in this instance of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code. **(HAWKINS)**

**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:

DATE: JULY 11, 2002

(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; and

(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, Florida Administrative Code, and applies to IXCs.

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

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., 2002.]

(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.

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 appear to have had the opportunity to choose another carrier. If prior authorization had been sought from the affected customers in accordance with Rule 25-4.118, Florida Administrative Code, customers may have failed to respond to the request for authorization or neglected to select another carrier, thereby, losing their long distance service.

DOCKET NOS. 020106-TI  
DATE: JULY 11, 2002

Staff recommends that the interexchange carrier selection requirements in Rule 25-4.118, Florida Administrative Code, be waived for the customer accounts affected by PNG Telecommunications, Inc. d/b/a PowerNet Global Communications' purchase of the customer base of SONIX4U.

**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. **(ELLIOTT)**

**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.

Exhibit A  
Notice Letter



«FirstName» «LastName»  
«Business\_Name»  
«Addy1»  
«City», «State» «Zip»

Dear Sonix4U Customer,

PowerNet Global Communications (PNG), a national provider of long-distance, data and Internet services has entered into an agreement with Sonix4U whereby PNG will purchase the assets of Sonix4U. As part of this transaction, Sonix4U and PNG have agreed to transfer Sonix4U customer accounts from Sonix4U to PNG. PNG will continue to offer you the same excellent service offered by Sonix4U coupled with the low rates offered by PNG.

PNG offers customers simple, flat-rate pricing any time of the day or night. So PNG will be offering you the same low rates you are currently getting with Sonix4U.

Sonix4U and PNG will work together to ensure that your transition to PNG will be seamless with no interruption of service. Nor will you be required to pay any switchover fees associated with the transfer.

If you have any questions or concerns about your service with Sonix4U, the change to PNG or about the rates, terms and conditions of services offered by PNG, we encourage you to call customer service

at 1-888-798-6768. Our customer service representatives will be happy to discuss the transition with you and answer any questions you may have.

Beginning now, you will receive your monthly bill from PowerNet Global Communications (PNG), billing on behalf of Sonix4U. If you have an outstanding balance with Sonix4U from prior invoices you will receive a separate statement for this amount.

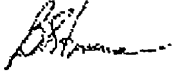
If you do not have a Calling Card or a Toll-Free number but are interested in these convenient, money-saving services please give us a call and we'll be glad to tell you about these services and have them added to your account.

We are confident you will be pleased with the superior service you receive from PowerNet Global. We also recognize, however, that you are free to select another carrier at any time. If you do not choose another carrier before February 23, 2002 PowerNet Global will become your carrier, even if you have arranged for preferred carrier freeze with your local service provider. We want you to know that we value our relationship with you and pledge to provide you with value-added communications solutions and unrivaled customer support.

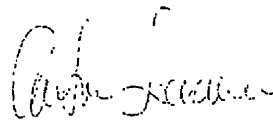
Sincerely,

Sincerely,

Exhibit A  
Notice Letter



Bernie Stevens  
CEO  
PowerNet Global Communications



Christian Socianu  
President / Chairman  
Sonix4U