

State of Florida



Public Service Commission

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DATE: JULY 11, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (PRUITT) *Y*
OFFICE OF THE GENERAL COUNSEL (DODSON) *PR*

RE: DOCKET NO. 020512-TI - PETITION OF TTI NATIONAL,
INC. (HOLDER OF IXC CERT. NO. 3159) FOR WAIVER OF CARRIER
SELECTION REQUIREMENTS OF RULE 25-4.118, F.A.C., IN
CONNECTION WITH TRANSFER OF CUSTOMERS FROM PT-1
COMMUNICATIONS, INC. (HOLDER OF IXC CERT. NO. 4432) AND
PT-1 LONG DISTANCE, INC. (HOLDER OF IXC CERT. NO. 7110) TO
TTI.

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\020512.RCM

CASE BACKGROUND

On June 12, 2002, the Commission received a petition from TTI National, Inc. (TTI), a wholly-owned subsidiary of WorldCom, Inc., seeking a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, for the transfer of long distance customers from PT-1 Communications, Inc. and PT-1 Long Distance, Inc. (PT-1 collectively)

In March 2001, PT-1 filed for voluntary Chapter 11 Bankruptcy in the United States Bankruptcy Court for the District of New York. On March 7, 2002, an auction was held at which another subsidiary of WorldCom, Inc. bid for PT-1's assets, including the interexchange telecommunications service (IXC) customer accounts.

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The Bankruptcy Court entered an order authorizing the sale free and clear of all liens, claims and encumbrances, and transferable to TTI at closing. According to the petition TTI will provide duplicate services at the same rates that are currently provided by PT-1.

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 TTI 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.

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. TTI has attested that it has provided for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. Staff has reviewed the notices that will be sent to the PT-1 customers. The customers will receive ample notification of the transfer, and should 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.

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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. **(Dodson)**

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.