



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 - FPSC
AUG - 8 AM 11:21
COMMISSION CLERK
JAE *bc* *[Signature]*

DATE: AUGUST 8, 2002

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (T.WILLIAMS) OFFICE OF THE GENERAL COUNSEL (ELLIOTT)

RE: DOCKET NO. 020757-TI - REQUEST FOR APPROVAL OF WAIVER OF CARRIER SELECTION REQUIREMENTS OF RULE 25-4.118, F.A.C. DUE TO THE PURCHASE OF NORTH AMERICAN COMMUNICATIONS CONTROL, INC. (HOLDER OF IXC CERTIFICATE NO. 4463) CUSTOMER BASE BY A.R.C. NETWORKS, INC. D/B/A INFOHIGHWAY (HOLDER OF IXC CERTIFICATE NO. 4702).

AGENDA: 08/20/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\020757.RCM

CASE BACKGROUND

On July 18, 2002, the Commission received a request for the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code due to the transfer of customer base from North American Communications Control, Inc. (holder of IXC Certificate No. 4463) to A.R.C. Networks, Inc. d/b/a InfoHighway (holder of IXC Certificate No. 4702).

Customers obtaining long distance service from North American Communications Control, Inc. will be transferred to A.R.C. Networks, Inc. d/b/a InfoHighway at comparable rates, with no switching fees or interruption of service. Upon consummation of the proposed transaction, notice will be provided to all affected customers by means of a billing notice.

DOCUMENT NUMBER-DATE
08344 AUG-8 08
FPSC-COMMISSION CLERK

DOCKET NO. 020757-TI
DATE: August 8, 2002

Further, there are no past due Regulatory Assessment Fees owed for North American Communications Control, Inc. or A.R.C. Networks, Inc. d/b/a InfoHighway. The Commission is vested with jurisdiction in this matter pursuant to Section 364.337 and 364.603, Florida Statutes.

RECOMMENDATION

ISSUE 1: Should the Commission relieve A.R.C. Networks, Inc. d/b/a InfoHighway in this instance of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code?

RECOMMENDATION: Yes. (T.Williams)

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 Rules 25-24.490 and 25-24.845, Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to IXC's and ALECs.

Rule 25-24.455(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.

Furthermore, Section 364.337(4), Florida Statutes, provides, in pertinent part: "...a certificated intrastate interexchange telecommunications company may petition the commission for a waiver of some or all the requirements of this chapter [364], except ss.364.16, 364.335(3), or subsection (5). The commission may grant such petition if determined to be in the public interest."

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. Further, staff has reviewed the customer notification and believes it is adequate.

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.

DOCKET NO. 020757-TI
DATE: August 8, 2002

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. **(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.



NOTICE OF TRANSFER OF TELEPHONE SERVICE

Welcome Valued Customer:

A.R.C. Networks, Inc. d/b/a InfoHighway ("InfoHighway") and North American Communications Control, Inc. ("NACC") are pleased to announce that InfoHighway will become your new telephone service provider on or about August 31, 2002. InfoHighway has provided telecommunications services to small and medium-sized business, residential customers and governmental agencies in over 20 states since 1996. NACC recommends InfoHighway Communications to be your new telephone service provider.

What happens during the transition process?

The information below should address any questions you may have regarding the transition process:

- NACC and InfoHighway will take all necessary steps to ensure that your telephone service is transitioned without any service interruption, any charge or any inconvenience to you. It is anticipated that you will not experience any changes to your existing service. Although InfoHighway does not assume responsibility for any pending or future complaints you may have regarding past service provided by NACC, InfoHighway will assume responsibility for any carrier change charge that may be incurred as a result of this transfer.
- On or about August 31, 2002, NACC will transfer your telephone service to InfoHighway and will no longer provide local or long distance telephone service. Consequently, if you do not wish to receive service from InfoHighway, we ask that you select another telephone service provider by July 23, 2002. Your selection of an alternate telephone service provider requires that you contact that service provider directly, on or before July 23, 2002, to ensure that your service is properly transferred. If you select an alternate provider after July 23, 2002, there may be a delay in the implementation of your new service provider request until after August 31, 2002. In addition, you may incur connection and /or presubscription fees because of your selection of an alternate provider. **If you take no action your telecommunications service will be automatically transferred to InfoHighway on or about August 31, 2002.**
- The rates, terms and conditions for your service will remain the same and you will continue to be billed monthly for your service. Please use the remittance advice, included in your bill, whenever possible to ensure payments are sent to the proper address. Should there be changes in rate, terms or conditions in the future, InfoHighway will notify you in the manner required by regulatory agencies.

- During the transfer, existing "preferred carrier" freezes on services currently provided by NACC will be lifted. If you have a "preferred carrier" freeze on your account and would like to keep that protection after the transfer, please contact our Customer Service organization at Toll Free 800-551-1013. Customer Service will be available to assist you with the reactivation of your "preferred carrier" freeze after August 31, 2002.

InfoHighway extends a warm welcome to all NACC customers and is pleased to inform you that several key NACC employees will be joining the InfoHighway team to ensure your continued customer satisfaction. Our mutual goal is to continue to deliver a wide array of high-quality, affordable products and services that will help your business gain and maintain a competitive edge in your marketplace. We realize you have a choice of telecommunications providers, and we sincerely appreciate your continued patronage.

Please call InfoHighway's Customer Service number, 1-800-551-1013, if you have any questions or concerns regarding this change in your telephone service provider.

Sincerely yours,



North American Communications Control, Inc.



InfoHighway