



Public Service Commission
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DATE: JANUARY 9, 2003

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

FROM: DIVISION OF COMPETITIVE MARKETS & ENFORCEMENT (PRUITT) *Y*
OFFICE OF THE GENERAL COUNSEL (TAYLOR/DODSON) *BET JWB* *bc*

RE: DOCKET NO. 021189-TI - JOINT APPLICATION FOR WAIVER OF CARRIER SELECTION REQUIREMENTS OF RULE 25-4.118, F.A.C., FOR TRANSFER OF RETAIL CUSTOMER BASE AND RELATED ASSETS OF INTERNATIONAL EXCHANGE COMMUNICATIONS, INC. D/B/A IE COM (HOLDER OF IXC CERTIFICATE NO. 5798) TO MATRIX TELECOM, INC. (HOLDER OF IXC CERTIFICATE NO. 2495), AND REQUEST FOR NAME CHANGE ON CERTIFICATE NO. 2495 TO MATRIX TELECOM, INC. D/B/A IECOM.

AGENDA: 01/21/03 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\021189.RCM

CASE BACKGROUND

On January 4, 2001, International Exchange Communications, Inc. d/b/a IE Com (International) filed a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court, Northern District of California, San Francisco Division.

On October 25, 2002, this Commission received a joint petition from International, holder of Interexchange Telecommunications Service Certificate No. 5798, and Matrix Telecom, Inc. (Matrix), holder of Interexchange Telecommunications Service Certificate No. 2495, requesting a waiver of the carrier selection requirements in Rule 25-4.118, Florida Administrative Code, for the transfer of the

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retail customer base and related assets from International to Matrix. The transfer was approved in the Settlement Agreement filed with the Bankruptcy Court on December 20, 2002. The petition also requested the approval of a name change for Matrix to include the fictitious name, IECOM.

While there are no outstanding Regulatory Assessment Fees (RAFs) owed by the entities mentioned above, International, which is under Chapter 11 bankruptcy, does have outstanding penalties and interest for the late payment of its 1999 and 2000 RAFs. The Commission is vested with jurisdiction in this matter pursuant to Sections 364.335, 364.337, and 364.603, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of the retail customer base and related assets from International Exchange Communications, Inc. d/b/a IE Com to Matrix Telecom, Inc.?

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 IXC's.

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. Matrix 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 notice that will be sent to the 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.

Therefore, 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 the Commission approve the request for a name change on Interexchange Telecommunications Service Certificate No. 2495 from Matrix Telecom, Inc. to Matrix Telecom, Inc. d/b/a IECOM?

RECOMMENDATION: Yes. (Pruitt)

STAFF ANALYSIS: Upon staff's review of the Department of State, Division of Corporations' records, it appears that Matrix Telecom, Inc. has properly registered the fictitious name, IECOM. Therefore, staff recommends that IXC Certificate No. 2495 be amended to reflect the inclusion of the fictitious name.

ISSUE 3: Should this docket be closed?

RECOMMENDATION: 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. (Taylor/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.