

State of Florida



# Public Service Commission

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COMMISSION  
CLERK

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

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**DATE:** May 5, 2005

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Division of Competitive Markets & Enforcement (M. Watts) *MA*  
Office of the General Counsel (Susac) *Susac*

**RE:** Docket No. 050207-TP – Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to transfer of certain assets of Global Crossing Telecommunications, Inc. (holder of IXC Registration No. TI720), Global Crossing Local Services, Inc. (Holder of CLEC Certificate No. 5574), and Global Crossing Telemangement, Inc. (holder of CLEC Certificate No. 5308) to Matrix Telecom, Inc. d/b/a IECOM (holder of IXC Registration No. TI299) and Matrix Telecom, Inc. (CLEC application pending).

**AGENDA:** 05/17/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\050207.RCM.DOC

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### 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 customers from Global Crossing Telecommunications, Inc. (holder of IXC Registration No. TI720), Global Crossing Local Services, Inc. (Holder of CLEC Certificate No. 5574), and Global Crossing Telemangement, Inc. (holder of CLEC Certificate No. 5308) to Matrix Telecom, Inc. d/b/a IECOM (holder of IXC Registration No. TI299) and Matrix Telecom, Inc. (CLEC application approved at the May 3, 2005, Agenda Conference)?

**Recommendation:** Yes. (M. Watts/Susac)

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**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 (LOA) . . . from the customer requesting the change;

(b) The provider has received a customer-initiated call for service . . . ;

(c) A firm that is independent and unaffiliated with the provider . . . 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 intrastate interexchange telecommunications companies (IXCs).

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

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.

Pursuant to Rule 25-24.845, Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to competitive local exchange telecommunications companies (CLECs).

Section 364.337(2), Florida Statutes, states in pertinent part:

A certificated competitive local exchange telecommunications company may petition the commission for a waiver of some or all of the requirements of this chapter, except ss. 364.16, 364.336, and subsections (1) and (5). The commission may grant such petition if determined to be in the public interest.

The authority for Rule 25-4.118, Florida Administrative Code, is found in Section 364.603, Florida Statutes, which is a section the Commission is authorized to waive.

Matrix Telecom, Inc. (Matrix) has attested that it will provide 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 Global Crossing Telecommunications, Inc.'s, Global Crossing Local Services, Inc.'s, and Global Crossing Telemangement, Inc.'s (collectively "Global Crossing's") customers and found it to be

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adequate. The customers should not experience any interruption of service, rate increase, or switching fees.

In addition, Global Crossing has attested that it intends to continue to provide telecommunications services in the State of Florida after consummation of the transfer of assets to Matrix, and will retain responsibility to resolve any and all complaints brought against it, in compliance with all applicable Florida statutes and regulations.

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. 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 local and long distance service. Furthermore, staff believes that granting this waiver will avoid unnecessary slamming complaints during this transition.

Further, neither Matrix nor Global Crossing has any outstanding regulatory assessment fees, penalty, or interest.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.02, 364.336, 364.337, 364.345 and 364.603, Florida Statutes.

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 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. **(Susac)**

**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.