

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Joint petition of Sprint Communications Company, Limited Partnership, holder of IXC Registration No. TI793, and Sprint Long Distance, Inc., holder of IXC Registration No. TK001, for waiver of Rule 25-4.118, F.A.C., Local, Local Toll or Toll Provider Selection to allow transfer of certain Sprint Communications Company, Limited Partnership long distance customers to Sprint Long Distance, Inc.

DOCKET NO. 060142-TI

In re: Joint petition of Sprint Communications Company, Limited Partnership, holder of CLEC Certificate No. 8609 and IXC Registration No. TI793, and Sprint Long Distance, Inc., holder of CLEC Certificate No. 4732 and IXC Registration No. TK001, for waiver of Rule 25-4.118, F.A.C., Local, Local Toll or Toll Provider Selection, to allow transfer of certain Sprint Communications Company, Limited Partnership local customers to Sprint Long Distance, Inc.

DOCKET NO. 060167-TP
ORDER NO. PSC-06-0343-PAA-TP
ISSUED: April 24, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
J. TERRY DEASON
ISILIO ARRIAGA
MATTHEW M. CARTER II
KATRINA J. TEW

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING RULE WAIVER 25-4.118, FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

DOCUMENT NUMBER - DATE

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FPSC-COMMISSION CLERK

I. Case Background

On December 15, 2004, Sprint Corporation and Nextel Communications, Inc. entered into a merger agreement wherein Nextel Communications, Inc. would merge with and into a wholly owned subsidiary of Sprint Corporation. The merger closed on August 12, 2005. The corporation's new name became Sprint Nextel Corporation (Sprint). In the merger agreement, Sprint Corporation and Nextel Communications, Inc. agreed to separate the wireline local service operation into an independent, stand-alone operation. In order to facilitate the separation, Sprint formed a new subsidiary, LTD Holding Company (LTD) to control the Sprint operating companies serving local customers. By Order No. PSC-05-0985-PAA-TP, issued October 13, 2005, this Commission approved the transfer of control of the incumbent local exchange telecommunications company (ILEC) Sprint-Florida, Inc. and Sprint Payphone from Sprint-Nextel to LTD Holding Company.

To complete the separation of the Sprint operating companies serving local customers, Sprint is doing two things. First, in Docket No. 060142-TI, it is transferring its intrastate interexchange company (IXC) customers located in its ILEC territories from Sprint Communications Company, Limited Partnership d/b/a Sprint (IXC Registration No. TI793, hereinafter referred to as "Sprint LP") to the long distance company controlled by LTD, Sprint Long Distance, Inc. (IXC Registration No. TK001, hereinafter referred to as "Sprint LD.") Second, in Docket No. 060167-TP, Sprint is transferring its competitive local exchange company (CLEC) customers from Sprint Communications Company Limited Partnership (CLEC Certificate No. 4732, hereinafter referred to as "SCC") to the CLEC controlled by LTD, Sprint Long Distance, Inc. (CLEC Certificate No. 8609, hereinafter referred to as "SLD.") For the SCC customers who are currently provided long distance service by Sprint LP as a bundled packaged, their long distance service is also being transferred to Sprint LD. Sprint is seeking waivers of Rule 25-4.118, Florida Administrative Code, for these customer base transfers.

These waivers are being sought to provide this Commission notice of the transfer of assets, for the treatment of customers in a consumer-friendly manner and to allow for a transition to occur in a smooth process protecting both the consumer and the company. Without this waiver, Sprint LD and SLD would be required to obtain signed letters of agency (LOAs) or third party verifications (TPVs) from each customer being transferred. These waivers are also beneficial to the customers as they will not be subject to a loss of service on the date of transfer.

We are vested with jurisdiction in these matters pursuant to Sections 364.02, 364.336, 364.337, and 364.603, Florida Statutes.

II. Analysis

As noted in the Case Background there are two separate dockets for rule waiver requests. Docket No. 060142 addresses a transfer of customers from Sprint Communications Company, Limited Partnership long distance customers to Sprint Long Distance, Inc. Docket No. 060167 addresses a transfer of customers from Sprint Communications Company, Limited Partnership local and long distance customers to Sprint Long Distance, Inc.

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 25-24.475(3), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to IXC's.

Rule 25-24.455(2), Florida Administrative Code, states:

An IXC may petition for a waiver of any provision of this Part. The waiver shall be granted in whole, granted in Part or denied based on the following:

- (a) The factors enumerated in Section 364.337(4), Florida 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;
- (c) Alternative regulatory requirements for the company which may serve the purposes of this part; and
- (d) Whether the waiver is in the public interest.

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 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 we are authorized to waive.

Sprint LD and SCC have both attested that they will provide for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. Our staff has reviewed the notices that will be sent to Sprint LP/SLD's customers based on the class of the respective customer (business or residential) and

found them to be adequate. The customers shall not experience any interruption of service, rate increase, or switching fees.

In addition, Sprint LD/SLD stated in its petition that it will be responsible for any outstanding customer complaints after the date of the transfer, but will work with Sprint LP and SCC to resolve any complaints regarding service prior to the transfer.

Further, neither Sprint LD/SLD, SCC nor Sprint LP have any outstanding regulatory assessment fees, penalties or interest associated with its IXC registrations or CLEC certification.

III. Decision

We find, 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, we find that granting this waiver will avoid unnecessary slamming complaints during this transition.

Therefore, we approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of certain Sprint Communications Company, Limited Partnership long distance customers to Sprint Long Distance, Inc. in Docket No. 060142-TI and in the transfer of certain Sprint Communications Company, Limited Partnership local and long distance customers to Sprint Long Distance, Inc. in Docket No. 060167-TP.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of certain Sprint Communications Company, Limited Partnership long distance customers to Sprint Long Distance, Inc. in Docket No. 060142-TI and in the transfer of certain Sprint Communications Company, Limited Partnership local and long distance customers to Sprint Long Distance, Inc. in Docket No. 060167-TP is hereby approved. It is further

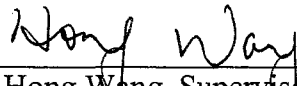
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code is received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

Based on the foregoing, it is

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 24th day of April, 2006.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: 

Hong Wang, Supervisor
Case Management Review Section

(S E A L)

TLT

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on May 15, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.