

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition for waiver of carrier selection requirements of Rule 25-4.118, FAC, to permit migration of interexchange customers of BridgeCom International, Inc., ATX Licensing, Inc., and A.R.C. Networks, Inc. a/b/a InfoHighway to Broadview Networks, Inc.

DOCKET NO. 070682-TI  
ORDER NO. PSC-08-0024-PAA-TI  
ISSUED: January 7, 2008

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

NOTICE OF PROPOSED AGENCY ACTION ORDER GRANTING  
BROADVIEW NETWORKS, INC., BRIDGECOM INTERNATIONAL, INC., ATX  
LICENSING, AND A.R.C. NETWORKS, INC. D/B/A INFOHIGHWAY'S JOINT PETITION  
FOR WAIVER OF CARRIER SELECTION REQUIREMENTS  
AND TRANSFER OF CUSTOMERS

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.

I. Case Background

On November 9, 2007, Broadview Networks, Inc. (Broadview) and its sister companies, BridgeCom International, Inc. (BridgeCom), ATX Licensing, Inc. (ATX), and A.R.C. Networks, Inc., d/b/a InfoHighway (InfoHighway) submitted a joint petition for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, (F.A.C.) due to the migration of a portion of the interexchange customers of BridgeCom, ATX, and InfoHighway to Broadview. BridgeCom, ATX, and InfoHighway will transfer 37, 372, and 127 customers, respectively to Broadview.

Broadview, BridgeCom, ATX, and InfoHighway are all registered intrastate interexchange telecommunications companies (IXC) that provide interexchange

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telecommunications services in Florida. This waiver is being sought to prevent Broadview from having to obtain authorization from each customer being transferred to the company. With the waiver, Broadview can protect itself from possible complaints of unauthorized carrier changes (slamming). This waiver is 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 this matter pursuant to Sections 364.02, 364.336, and 364.603, Florida Statutes.

## II. 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 25-24.475(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.

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

Broadview has attested that it will provide for a seamless transition while ensuring that the affected customers will continue to receive the same services and rates that the customers currently receive from BridgeCom, ATX, and InfoHighway, respectively. Our staff has reviewed the notices and have found them to be adequate. Currently, BridgeCom, ATX, and InfoHighway

have no outstanding customer complaints. If customer complaints are filed against these companies and are not resolved prior to the transaction, Broadview will resolve all of the outstanding complaints.

Neither Broadview, BridgeCom, ATX, nor InfoHighway have any outstanding regulatory assessment fees associated with their respective IXC registrations. 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 long distance service. Furthermore, granting this waiver will avoid unnecessary slamming complaints during this transition.

III. Decision

Therefore, we find it appropriate to approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, to permit migration for the interexchange customers of BridgeCom, ATX, and InfoHighway to Broadview.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, to permit migration for the interexchange customers of BridgeCom, ATX, and InfoHighway to Broadview be granted. 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 Office of Commission Clerk, 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

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

By ORDER of the Florida Public Service Commission this 7th day of January, 2008.



ANN COLE  
Commission Clerk

( S E A L )

CCP

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 Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 28, 2008.

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.