

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition of MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services; MCI Communications Services, Inc. d/b/a Verizon Business Services; TTI National Inc.; Teleconnect Long Distance Services & Systems Co. d/b/a Telecom\*USA; Verizon Florida LLC; and Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance for waiver of Rule 25-4.118, F.A.C., due to the transfer of certain customers from MCI to Verizon as a result of MCI's discontinuation of service to presubscribed residential and small business customers in Verizon's service territory.

DOCKET NO. 080733-TP  
ORDER NO. PSC-09-0207-PAA-TP  
ISSUED: April 6, 2009

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER GRANTING WAIVER OF RULE 25-4.118

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 December 31, 2008, MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (MCImetro), MCI Communications Services, Inc. d/b/a Verizon Business Services (MCS), TTI National Inc. (TTI), and Teleconnect Long Distance Services & Systems Co. d/b/a Telecom\*USA (TLDS) (collectively, MCI companies) and Verizon Florida LLC and Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance (VLD) (collectively,

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Verizon companies), submitted a joint request for a temporary waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code (F.A.C.).

Verizon Florida LLC is an incumbent local exchange telecommunications company (ILEC). MCImetro is an alternative access vendor (AAV) that is authorized by this Commission to provide alternative access vendor and competitive local exchange telecommunications services. MCS, TTI, TLDS and VLD are registered intrastate interexchange telecommunications companies (IXCs).

The MCI companies will only transfer residential and small business customers, currently being served within the geographic territory of Verizon Florida LLC, to the Verizon companies. Customers that select another carrier will not be transferred. The customer notice letters will be sent out beginning May 4, 2009, with the transfers beginning on June 4, 2009. The companies anticipate that the transfers will be completed within six months. At the conclusion of the transfers, the MCI companies will continue to serve all of their existing Florida customers that are outside of Verizon Florida LLC's ILEC territory. The MCI companies will retain their AAV certificate and IXC registrations.

The Verizon companies are acquiring approximately 190 local exchange service residential customers, and 400 local exchange service small business customers currently served by the MCI companies. Many of these customers have bundled local and long distance service from the MCI companies, and will be moved to a corresponding bundled service with the Verizon companies. The Verizon companies seek the waiver so they will not have to obtain each customer's authorization. With the waiver, the Verizon companies can protect themselves from possible complaints of unauthorized carrier changes. Customers will benefit because they will not be subject to a loss of service during the transfer.

We are vested with jurisdiction in this matter pursuant to Sections 364.02, 364.051, 364.08, 364.09, 364.335, 364.336, 364.337, 364.345, and 364.603, Florida Statutes. Accordingly, we believe the following recommendations are appropriate.

## **II. Analysis**

Pursuant to Rule 25-4.118(1), F.A.C., a customer's carrier cannot be changed without the customer's authorization. Rule 25-4.118(2), F.A.C., 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 . . .

This is a petition for a waiver of Rule 25-4.118, F.A.C., which applies to ILECs. Under Section 120.542, Florida Statutes, and Rule 28-104, F.A.C., a person affected by a Commission Rule may petition the Commission for a waiver of that rule. Thus, we have general statutory authority to grant this petition.

Pursuant to Rule 25-24.475(3), F.A.C., Rule 25-4.118, F.A.C., is incorporated into Chapter 25-24, and applies to IXCs.

Rule 25-24.455(2), F.A.C., 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 Verizon companies have 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. We have reviewed the notice that will be sent to the MCI companies' customers and found it to be adequate. The customers should not experience any interruption of service, undisclosed rate increase, or switching fees.

The Verizon companies have 53 outstanding local complaints and five long distance complaints as of the filing date of this recommendation. The MCI companies have two outstanding local complaints and seven long distance complaints. After the transfers are consummated, the Verizon companies will resolve any customer complaints that arise from issues occurring prior to the transfers.

Further, neither the Verizon nor MCI companies have any outstanding regulatory assessment fees, penalties or interest associated with their IXC registrations, ILEC certification, or AAV certification.

We find that in this instance it is appropriate to waive the carrier selection requirements of Rule 25-4.118, F.A.C. 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/or long distance services. Furthermore, we find that granting this waiver will avoid unnecessary slamming complaints during this transition.

**III. Decision**

Therefore, we find it appropriate to approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C. Any waiver approved by this Commission should only apply to the specific set of customers identified in the petition. The petitioners should be required to provide this Commission notification of the completion date when all of the transfers have been consummated. If for any reason the transfers are not consummated, any waiver approved by this Commission shall be null and void.

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, for transfer of certain residential and small business customers from MCI metro Access Transmission Services LLC d/b/a Verizon Access Transmission Services, MCI Communications Services, Inc. d/b/a Verizon Business Services, TTI National Inc., and Teleconnect Long Distance Services & Systems Co. d/b/a Telecom\*USA to Verizon Florida LLC and Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance be granted.

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 6th day of April, 2009.



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ANN COLE  
Commission Clerk

( S E A L )

JLM

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 April 27, 2009.

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.