

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: June 9, 2005

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

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

RE: Docket No. 050326-TI – Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to acquisition by IBFA Acquisition Company, LLC (IXC Registration No. TJ993) of subscriber base of American Farm Bureau, Inc. d/b/a The Bureau Connection (IXC Registration No. TJ383).

AGENDA: 06/21/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\CMP\WP\050326.RCM.DOC

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 American Farm Bureau, Inc. to IBFA Acquisition Company, LLC?

Recommendation: Yes. (M. Watts/Scott)

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.

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.

IBFA Acquisition Company, LLC (IBFA) 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 American Farm Bureau, Inc.'s (AFBI's) customers and found it to be adequate. The customers should not experience any interruption of service, rate increase, or switching fees.

In addition, IBFA and AFBI provided the following statements in a letter dated May 20, 2005, regarding outstanding consumer complaints:

If a customer of American Farm Bureau, Inc. d/b/a The Farm Bureau Connection files a complaint about the service provided or disputes an invoice that was received prior to the acquisition by IBFA, then IBFA will work with the customer and/or Commission to resolve the complaint within the following guidelines:

Adjustments to customers' bills shall be made to the extent that records are available and/or circumstances exist which reasonably indicate that such charges are not in accordance with approved rates or that an adjustment may otherwise be appropriate.

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

Further, AFBI does not have any outstanding Regulatory Assessment Fees, penalty, or interest.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.02, 364.336 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. **(Scott)**

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.