

State of Florida



## Public Service Commission

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

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**DATE:** June 27, 2007

**TO:** Office of Commission Clerk (Cole)

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

**RE:** Docket No. 070367-TP – Joint petition for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., for migration of residential local service customers from AT&T Communications of the Southern States, LLC, holder of AAV Certificate No. 4037, to BellSouth Telecommunications, Inc. d/b/a AT&T Florida, holder of ILEC Certificate No. 8, and request for expedited treatment.

**AGENDA:** 07/10/07 – 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\070367.RCM.DOC

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### Case Background

On June 8, 2007, AT&T Communications of the Southern States, LLC (AT&T-C) and BellSouth Telecommunications, Inc. d/b/a AT&T Florida (AT&T Florida), a competitive local exchange telecommunications company (CLEC) and an incumbent local exchange telecommunications company (ILEC), respectively, submitted a joint request for a waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code for the transfer of residential local customers from AT&T-C to AT&T Florida.

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AT&T Florida seeks the rule waiver so that it will not have to obtain each customer's authorization. With the waiver, AT&T Florida can protect itself from possible complaints of unauthorized carrier changes (slamming). Residential customers will benefit because they will not be subject to a loss of service during the transfer.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.02, 364.051, 364.08, 364.09, 364.336, 364.337, and 364.603, Florida Statutes. Accordingly, staff believes the following recommendations are appropriate.

### **Discussion of Issues**

**Issue 1:** Should the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of AT&T Communications of the Southern States, LLC's residential local customers to BellSouth Telecommunications, Inc. d/b/a AT&T Florida?

**Recommendation:** Yes, the Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code. **(M. Watts/R. Mann)**

**Staff Analysis:** This is a petition for a waiver of Rule 25-4.118, Florida Administrative Code. Under Section 120.542, Florida Statutes, and Rule 28-104, Florida Administrative Code, a person affected by a Commission Rule may petition the Commission for a waiver of that rule. Thus, the Commission has general statutory authority to grant this petition.

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. . .

AT&T Florida 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 AT&T-C's customers and found it to be adequate. The customers should not experience any interruption of service, rate increase<sup>1</sup>, or switching fees.

Neither AT&T-C nor AT&T Florida has any outstanding regulatory assessment fees, penalties, or interest associated with its respective CLEC or ILEC certificate. AT&T Florida has agreed to resolve all outstanding AT&T-C consumer complaints after the customer migration.

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<sup>1</sup> AT&T-C will cease providing residential local exchange service to its current customers in the former BellSouth territory. Those AT&T-C residential customers who currently have a bundle of local and long distance service will be placed on the equivalent AT&T-C long distance plan and will be migrated to local service provided by AT&T Florida. To ensure that there is not a rate increase between a customer's current AT&T-C local and long distance bundled plan and the customer's new AT&T Florida stand-alone local plan and AT&T-C stand-alone long distance plan, the customer will be made whole through a credit. In a footnote in its petition, AT&T acknowledged that in some circumstances a credit would raise a concern about discrimination issues. This is not the case here, however, because the credit is directly linked to an approved prior economic bargain effected pursuant to a price list and is being applied to ensure that all similarly situated customers will see no price increase as a result of the migration.

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AT&T-C has nine open consumer complaints as of June 26, 2007, which Commission staff is processing.

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 process, customers may be disconnected should they fail to take required action.

Therefore, staff recommends that the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of AT&T Communications of the Southern States, LLC's residential local exchange customers to BellSouth Telecommunications, Inc. d/b/a AT&T Florida.

**Issue 2:** Should this docket be closed?

**Recommendation:** The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order. **(R. Mann)**

**Staff Analysis:** The Order issued from this recommendation will be a proposed agency action. Thus, the Order will become final and effective upon issuance of the Consummating Order if no person whose substantial interests are affected timely files a protest within 21 days of issuance of this Order.