

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: December 6, 2007

TO: Office of Commission Clerk (Cole)

FROM: Division of Competitive Markets & Enforcement (Kennedy)
Office of the General Counsel (Poblete)

RE: Docket No. 070692-TP – Joint petition of SBC Long Distance, LLC d/b/a SBC Long Distance d/b/a AT&T Long Distance, TCG South Florida, and BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast for waiver of Rule 25-4.118, F.A.C., for migration of business local service customers from SBC Long Distance, LLC d/b/a SBC Long Distance d/b/a AT&T Long Distance to BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast or TCG South Florida, and request for expedited treatment.

AGENDA: 12/18/07 – 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\070692.RCM.DOC

Case Background

On November 16, 2007, SBC Long Distance, LLC d/b/a SBC Long Distance d/b/a AT&T Long Distance (SBC), TCG South Florida (TCG), and BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast (AT&T Florida) submitted a joint petition for a waiver of the subscriber carrier selection and verification requirements contained in Rule 25-4.118, Florida Administrative Code.

SBC is a competitive local exchange company (CLEC), TCG is an alternative access vendor with CLEC authority, and AT&T Florida is an incumbent local exchange company. Each company provides local exchange telecommunications services. For the purposes of this recommendation, the companies are collectively referred to as AT&T Companies.

Because of the integration and streamlining of certain AT&T Companies' business operations, SBC will cease providing services to its current single-line business local customers in Florida. SBC's single-line business customers located within AT&T Florida's service territory will be migrated to AT&T Florida. Those customers located elsewhere in Florida will be migrated to TCG. Collectively, there are approximately 54 single-line business customers in Florida. The migration of these customers' local telephone service will have no impact on the customers' long distance service provider. The current long distance service providers selected by the customers will remain the same.

AT&T Florida and TCG seek the waiver of Rule 25-4.118, Florida Administrative Code, so they will not have to obtain each customer's authorization. With the waiver, AT&T Florida and TCG can protect themselves from possible complaints of unauthorized carrier changes (slamming). Customers will benefit because they will not be subject to a loss of service.

The Commission is vested with jurisdiction in this matter pursuant to Sections 364.02, 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 migration of SBC Long Distance, LLC d/b/a SBC Long Distance d/b/a AT&T Long Distance's single-line business local customers to TCG South Florida and BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast?

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

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 25-24.845, 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 the Commission is authorized to waive.

AT&T Florida and TCG 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. Customers will be migrated to comparable plans offered by AT&T Florida and TCG. Pursuant to a planned promotion, customers migrated to AT&T Florida will receive a 15% discount on the tariffed rates for their service for 12 months after transfer. Customers migrated to TCG will be charged tariffed rates that most closely match the rates currently billed by SBC. In either case, customers will have sufficient notice and ample time to make an informed decision on whether to remain with AT&T or select another provider.

Staff has reviewed the notice that will be sent to SBC's customers and found it to be adequate. The customers should not experience any interruption of service or switching fees. In addition, AT&T Florida and TCG have agreed to resolve any customer complaints that arise from issues occurring prior to the customer migrations. None of the AT&T Companies have any outstanding regulatory assessment fees, penalties or interest associated with their respective certifications.

Staff believes that in this instance it is appropriate 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 services. Furthermore, staff believes that granting this waiver will minimize slamming complaints during the transition.

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 migration of SBC Long Distance, LLC d/b/a SBC Long Distance d/b/a AT&T Long Distance's single-line business local customers to TCG South Florida and BellSouth Telecommunications, Inc. d/b/a AT&T Florida d/b/a AT&T Southeast.

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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 administratively upon the issuance of a consummating order. **(Poblete)**

Staff Analysis: 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 administratively upon the issuance of a consummating order.