

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:** March 5, 2009

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

**FROM:** Division of Regulatory Compliance (M. Watts)  
Office of the General Counsel (Morrow)

**RE:** Docket No. 080733-TP – 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.

**AGENDA:** 03/17/09 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Argenziano

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\RCP\WP\080733.RCM.DOC

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### 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, 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 the 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.

The Commission is 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, 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, F.A.C., due to the transfer 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.'s, and Teleconnect Long Distance Services & Systems Co. d/b/a Telecom\*USA's local and long distance customers to Verizon Florida LLC and Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance?

**Recommendation:** Yes, the Commission should approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C. Any waiver approved by the Commission should only apply to the specific set of customers identified in the petition. The petitioners should be required to provide the 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 the Commission shall be null and void. **(M. Watts/Morrow)**

**Staff 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, the Commission has 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 IXC's.

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. Staff has 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.

Staff believes 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, staff believes that granting this waiver will avoid unnecessary slamming complaints during this transition.

Therefore, staff recommends that the Commission approve the request for waiver of the carrier selection requirements of Rule 25-4.118, F.A.C. Any waiver approved by the Commission should only apply to the specific set of customers identified in the petition. The petitioners should be required to provide the 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 the Commission shall be null and void.

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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. **(Morrow)**

**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 upon the issuance of a consummating order.