

State of Florida



# Public Service Commission

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**DATE:** July 21, 2005

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

**FROM:** Division of Competitive Markets & Enforcement (M. Watts) *MTA*  
Office of the General Counsel (Scott) *KS B/L*

**RE:** Docket No. 050437-TI – Request for waiver of carrier selection requirements of Rule 25-4.118, FAC, due to asset purchase agreement resulting in transfer of customer accounts from Red River Networks, LLC to NOSVA Limited Partnership d/b/a Cierracom Systems. *MTA*

**AGENDA:** 08/02/05 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Bradley

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\CMP\WP\050437.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 Red River Networks, LLC to NOSVA Limited Partnership d/b/a Cierracom Systems?

**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

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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.

NOSVA Limited Partnership d/b/a Cierracom Systems (NOSVA) 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 Red River Networks, LLC's (RRN's) customers and found it to be adequate. The customers should not experience any interruption of service, rate increase, or switching fees.

In addition, NOSVA provided the following statements in a letter dated July 14, 2005, regarding outstanding consumer complaints:

On behalf of NOSVA Limited Partnership ("NOSVA") and Red River Networks, LLC ("RRN") (collectively, the "Parties") this letter is to advise the Commission that NOSVA will resolve outstanding RRN complaints and issues . . .

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 preclude unnecessary slamming complaints during this transition.

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Further, neither NOSVA nor RRN has 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.