

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Request for waiver of carrier selection requirements of Rule 25-4.118, F.A.C., due to acquisition of telecommunications assets of American Long Lines, Inc., IXC Registration No. TJ753, by PaeTec Communications, Inc., IXC Registration No. TJ132; and request for removal from register of IXC Registration No. TJ753, effective December 31, 2005.

DOCKET NO. 050837-TI
ORDER NO. PSC-05-1243-PAA-TI
ISSUED: December 21, 2005

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
LISA POLAK EDGAR
ISILIO ARRIAGA

NOTICE OF PROPOSED AGENCY ACTION ORDER
APPROVING WAIVER OF
RULE 25-4.118, FLORIDA ADMINISTRATIVE CODE

BY THE COMMISSION:

Case Background

American Long Lines, Inc. (AMLL) and PaeTec Communications, Inc. (PaeTec) are registered intrastate interexchange telecommunications companies (IXC) in Florida and are wholly owned subsidiaries of PaeTec Corp. Both companies maintain separate administrative and business operations. In an effort to streamline the company operations, PaeTec Corp has decided to consolidate the administrative and business operations of AMLL and PaeTec. On October 19, 2005, our staff received notification of the parties intention to merge AMLL into PaeTec, transfer all of AMLL customer's to PaeTec, and to discontinue AMLL's operations in Florida. On November 4, 2005, our staff received the company's request for a waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code.

AMLL's request to acknowledge cancellation of its IXC registration is being separately handled by staff in accordance with Section 2.07.C of the Administrative Procedures Manual and is not included in this recommendation.

We are vested with jurisdiction in this matter pursuant to 364.02, 364.336, and 364.603, Florida Statutes.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Discussion of Issues

The issue before us is whether we should approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of customers from American Long Lines, Inc. to PaeTec Communications, Inc.?

Pursuant to Rule 25-4.118, 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 25-24.475(3), Florida Administrative Code, Rule 25-4.118, Florida Administrative Code, is incorporated into Chapter 25-24, and applies to IXCs.

Rule 25-24.455(2), Florida Administrative Code, 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 authority for Rule 25-4.118, Florida Administrative Code, is found in Section 364.603, Florida Statutes, which is a section this Commission is authorized to waive.

PaeTec has attested that it will provide for a seamless transition while ensuring that the affected customers will continue to receive the same level of service that the customers currently receive from AMLL. The customers will not experience any disruptions in service and the rates, terms, and conditions of service will be provided pursuant to the existing contracts assumed by PaeTec. PaeTec will amend its tariff to include a section that will address the AMLL customers and incorporate their current rates and terms. We have reviewed the notice that will be sent to AMLL's customers and found it to be adequate. PaeTec has also indicated that the company will work to resolve any complaints that the customers may have against AMLL that have not been resolved prior to the transition.

AMLL does not have any outstanding regulatory assessment fees, penalties, or interest associated with its IXC registration. The company shall pay its 2005 regulatory assessment fees no later than January 30, 2006.

We find 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, we find that granting this waiver will avoid unnecessary slamming complaints during this transition. Therefore, we hold that the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of customers from AMLL to PaeTec.

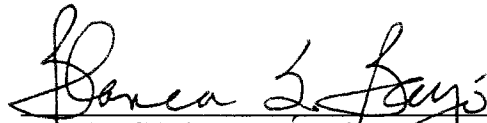
In conclusion, this Order will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. If this Order is not protested then this docket shall be administratively closed upon receipt of payment of the 2005 regulatory assessment fees by American Long Lines, Inc. If AMLL fails to pay its 2005 regulatory assessment fees, then this docket shall remain open pending further action.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we approve the waiver of the carrier selection requirements of Rule 25-4.118, Florida Administrative Code, in the transfer of customers from American Long Lines, Inc. to PaeTec Communications, Inc. It is further

ORDERED that this Order will become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, Florida Administrative Code, within 21 days of the issuance of the Proposed Agency Action Order. If this Order is not protested then this docket shall be administratively closed upon receipt of payment of the 2005 regulatory assessment fees by American Long Lines, Inc. If AMLL fails to pay its 2005 regulatory assessment fees, then this docket shall remain open pending further action.

By ORDER of the Florida Public Service Commission this 21st day of December, 2005.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

JLS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 11, 2006.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.