

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint petition by Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance and NYNEX Long Distance, Inc. d/b/a Verizon Enterprise Solutions for waiver of Rule 25-4.118, F.A.C., Local, Local Toll, or Toll Provider Selection.

DOCKET NO. 001669-TI
ORDER NO. PSC-00-2491-PAA-TI
ISSUED: December 26, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, CHAIRMAN
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

NOTICE OF PROPOSED AGENCY ACTION
ORDER WAIVING RULE REQUIREMENTS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

On November 3, 2000, we received a petition seeking a waiver of the interexchange carrier selection requirements of Rule 25-4.118, Florida Administrative Code, from Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance and NYNEX Long Distance, Inc. d/b/a Verizon Enterprise Solutions (the Petitioners). The Petitioners are certificated interexchange carriers (IXC) operating in Florida. As a result of the merger of Bell Atlantic and GTE, there are three different affiliates of the

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combined company Verizon Communications, Inc. that now provide overlapping long distance services in certain market segments. The companies informed us that they wish to transfer customers among the following affiliated entities: Verizon Select Services, Inc. (VSS), Bell Atlantic Communications, Inc. d/b/a Verizon Long Distance (VLD) and NYNEX Long Distance, Inc. d/b/a Verizon Enterprise Solutions (VES). The Petitioners propose to transfer certain segments of the customer base of VSS to VLD and VES, and to transfer certain segments of the customer base of VES to VLD.

Bell Atlantic and NYNEX have informed our staff that upon approval of their petition, the transferring company will send out a letter to all affected customers notifying them of the following: the pending change of their carrier selection to either VLD or VES; that there will be no change in the way they dial or in the customer service available to them; that there will be no charges associated with the change; that services will be provided at the same rates as those charged by the current carrier; and that they have the option to select a different long distance provider if they prefer. The initial notification will also include a toll-free customer inquiry number that customers may call for more information.

The basis for seeking a waiver is set forth in Rule 25-24.455(4), Florida Administrative Code. Under that rule, we may consider whether the petition is in the public interest, whether market forces obviate the need for the provision in a particular instance, and whether reasonable alternative regulatory methods may serve the same purpose. Rule 25-24.490, Florida Administrative Code, makes this waiver provision applicable to IXCs by incorporating Rule 25-4.118, Florida Administrative Code, under Chapter 25-24, Florida Administrative Code.

Pursuant to Rule 25-4.118(1), Florida Administrative Code, the provider of a customer shall not be changed without the customer's authorization. Rule 25-4.118(2), Florida Administrative Code, provides that an IXC shall submit a change request only if one of the following has occurred:

- (a) The provider has a letter of agency from the customer requesting the change;

- (b) The provider has received a customer-initiated call for service;
- (c) A third party firm has verified the customer's requested change.

Rule 25-24.455(4), Florida Administrative Code, states as follows:

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. In disposing of a petition, the Commission may consider:

- (a) The factors enumerated in Section 364.337(2), Fla. Statutes; [Now found in Section 364.337(4), F.S., 1999.]
- (b) The extent to which competitive forces may serve the same function as, or obviate the necessity for, the provision sought to be waived; and
- (c) Alternative regulatory requirements for the company which may serve the purposes of this Part.

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. The companies have provided for a seamless transition while ensuring that the affected customers understand available choices with the least amount of disruption to the customers. The customers will receive ample notification of the transfer and have the opportunity not to participate. 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 believe that granting this waiver will avoid unnecessary slamming complaints during this transition.

Accordingly, the Petition for waiver of the interexchange carrier selection requirements in Rule 25-4.118, Florida Administrative Code, shall be granted for the customer accounts

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affected by the merger of Bell Atlantic and GTE and the resultant transfer of customers among its affiliated entities.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Petition from BellAtlantic Communications, Inc. d/b/a Verizon Long Distance and NYNEX Long Distance, Inc. d/b/a Verizon Enterprise Solutions for waiver of the interexchange carrier selection requirements in Rule 25-4.118, Florida Administrative Code, shall be granted for the customer accounts affected by the merger and the resultant transfer of customers among its affiliated entities. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no timely protest to the proposed agency action is filed within 21 days of the date of issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 26th day of December, 2000.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

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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 Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 16, 2001.

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 docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.