

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Implementation of the Subscriber Carrier)
Selection Changes Provisions of the)
Telecommunications Act of 1996)
)
TXU Communications Telecom Services Company)
Request for Expedited Waiver)

CC Docket No. 94-129

REQUEST FOR EXPEDITED WAIVER

TXU Communications Telecom Services Company dba TXU Communications ("TXUC"), by its attorney, hereby requests waiver of the preferred interexchange carrier authorization and verification requirements of the Commission's Rules, 47 C.F.R. §§64.1100-64.1190, and the Carrier Change Orders.¹ The waiver is sought in order to permit TXUC to transfer the customer accounts of the approximately 1,800 consumers currently presubscribed to Network Operator Services, Inc. dba Network Long Distance ("Network") as their preferred carrier from the Network trade name to TXUC's own trade name.

TXUC is attempting to transfer the accounts of the Network customers to its own trade name and billing system by June 1, 2000. Accordingly, TXUC respectfully requests expedited grant of this petition.

¹ Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Further Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 10674 (1997), Second Report and Order and Further Notice of Proposed Rule Making, FCC 98-334 (released Dec. 23, 1998) ("Anti-Slamming Second Report FNPRM"); Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, 7 FCC Rcd 1038 (1992), *recon. denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, Phase I, 101 F.C.C.2d 911 (Allocation Order), 101 F.C.C.2d 935 (Waiver Order), *recon. denied*, 102 F.C.C.2d 503 (1985).

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I. BACKGROUND

TXUC is a Texas corporation, which is engaged in the resale of intraLATA, interLATA and international long distance toll services to the public. TXUC is an affiliate of TXU Communications Telephone Company, a Texas corporation engaged in the provision of local exchange telephone service.

On April 1, 2000, TXUC acquired the assets of Network, a Texas corporation located in Longview, Texas. These assets included the Network long distance trade name and the accounts of approximately 1,800 customers located predominately in the State of Texas to whom Network resold of intraLATA, interLATA and international long distance toll services. Since that time, TXUC has continued to serve the Network customers under the Network trade name. It has made no changes in the long distance rates and services available to the Network customers.

As of June 1, 2000, TXUC desires to eliminate the Network trade name, and to serve the Network customers under its own TXUC trade name. The approximately 1,800 customers being served under the Network trade name will continue to receive the same long distance services under the TXUC trade name at the same rates that they had been charged by Network. In other words, the transfer of the customer accounts will effect no actual or discernible change in the services received or rates paid by the former Network customers.

Prior to the change in the trade name, all existing Network customers will be notified in writing of the change in trade name and billing entity from Network to TXUC. The proposed notice, which is appended as Attachment A, informs Network customers that there will be no changes in the rates and services that they have been receiving. It expressly reminds them that they have a choice of many long distance providers, and tells them that they can change their

preferred carrier at any time. A similar notice, which is appended as Attachment B, will be sent by TXUC to all Network customers after the trade and billing name changes are completed.

II. WAIVER REQUEST

Grant of a waiver is appropriate if special circumstances exist and approval will serve the public interest. WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

Here, the central and controlling public interest factor is the receipt of uninterrupted, high quality service by the existing Network customers. A waiver of the Commission's authorization and verification rules is necessary to ensure a seamless transition of these customers from the Network trade name to the TXUC trade name. Were TXUC to attempt instead to obtain preferred carrier change authorizations from each of the existing "Network" customers, it is certain that at least some of the approximately 1,800 current "Network" customers would not respond in a timely or appropriate fashion. TXUC would have no choice but to terminate, as of June 1, 2000, the service of the "Network" customers who had not yet responded or who had responded in an erroneous or inadequate manner.

It is not at all clear that the Commission's carrier change rules were intended to apply to asset purchases, transfers of control and mergers -- particularly where the "new" carrier provides the same service under the same rates and conditions as the selling carrier. Nonetheless, TXUC has filed the present waiver request out of an abundance of caution.

TXUC is taking reasonable and sufficient steps to notify all existing "Network" customers in writing of the change in trade name and billing entity before and after the change takes place. As detailed above, the notices will remind customers that they have a choice of long distance providers, and that they can change their preferred carrier at any time. In addition,

customers will continue to receive the same long distance services at the same rates whether they are branded as Network or TXUC services.

To the best of TXUC's information and belief, there are no subscriber complaints against Network's long distance services pending at the Commission. To the extent that customer complaints have been filed (or are filed in the future) against Network, TXUC will work with the complainants and the Commission to resolve these complaints.

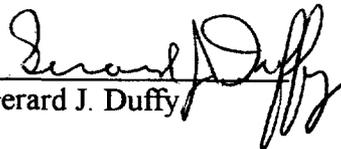
In similar circumstances, the Commission has granted waivers of Sections 64.1100-64.1190 of its rules to requesting carrier during recent months. See, e.g., Broadwing Telecommunications, Inc. Petition for Waiver, DA 00-748, released March 31, 2000; Excel Telecommunications, Inc., et al. Request for Expedited Waiver, DA 99-1992, released September 29, 1999; Long Distance of Michigan, Inc. Request for Waiver, DA 99-1295, released July 9, 1999; Sprint Communications Company, L.P. Request for Waiver, DA 99-1112, released June 17, 1999; One Call Communications, Inc. d/b/a Opticom Petition for Waiver, DA 99-1033, released May 28, 1999; CoreComm Limited Request For Waiver, DA 99-893, released May 13, 1999; International Exchange Communications Request for Waiver, DA 99-894, released May 13, 1999; and EqualNet Corporation Request for Waiver, DA 99-506, released March 15, 1999.

III. CONCLUSION

Therefore, good cause having been shown, the Commission is requested to waive the preferred carrier authorization and verification requirements of its Rules (47 C.F.R. §§64.1100-64.1190), and the Carrier Change Orders, supra, to permit the approximately 1,800 existing customers of Network to be served and billed under the TXUC trade name, without first

obtaining authorizations and verifications from such subscribers. Because TXUC is attempting to make this change by June 1, 2000, expedited treatment of this petition is requested.

Respectfully submitted,
**TXU COMMUNICATIONS TELECOM
SERVICES COMPANY**

By 
Gerard J. Duffy

Its Attorney

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(202) 659-0830

Dated: April 14, 2000

NOTICE TO CUSTOMERS OF NETWORK LONG DISTANCE

On April 1, 2000, TXU Communications Telecom Services Company, dba TXU Communications acquired certain long distance assets of Network Operator Services, Inc. dba Network Long Distance, including the long distance service accounts of customers like yourself. On June 1, 2000, TXU Communications is scheduled to begin providing long distance services for your account under its own trade name.

This means that, after June 1, 2000, you will receive your long distance bills from TXU Communications rather than Network Long Distance. You will continue to enjoy the same quality of service and the same competitive long distance rates to which you are accustomed. In addition, you will have the option to enroll in any of several TXU Communications long distance plans designed to meet a variety of business and residential needs.

TXU Communications (formerly, Lufkin-Conroe Communications) has a 104-year tradition of combining the latest in telecommunications technology with unparalleled customer service to provide the finest integrated communications services to customers across Texas. We offer a complete range of services, including local telephone, long distance, Internet access, paging, data transport, and web services. Since the company's beginning in 1898, we have grown to serve more than 115,000 access lines.

TXU Communications also operates an 850-mile proprietary, state-of-the-art fiber optic network that is joined, through alliances with other communications providers, to a fiber optic network that spans more than 2,800 miles in Texas. The company is a subsidiary of TXU, which has assets of \$40 billion and is one of the largest investor-owned energy services companies in the world.

TXU Communications looks forward to building a lasting and successful relationship with you as it brings its high-quality long distance service and extraordinary customer care to your area. We understand that you have a choice of multiple long distance carriers and that you can change your preferred carrier at any time. If you would like additional information about TXU Communications, please call our customer service department at 1-877-888-9777.

Sincerely,
TXU Communications

ATTACHMENT B

NOTICE TO FORMER CUSTOMERS OF NETWORK LONG DISTANCE

On April 1, 2000, TXU Communications Telecom Services Company, dba TXU Communications acquired certain long distance assets of Network Operator Services, Inc. dba Network Long Distance, including the long distance service accounts of customers like yourself. On June 1, 2000, TXU Communications began providing long distance services for your account under its own trade name.

This means that you are now receiving your long distance bills from TXU Communications rather than Network Long Distance. You will continue to enjoy the same quality of service and the same competitive long distance rates to which you have been accustomed. In addition, you now have the option to enroll in any of several TXU Communications long distance plans designed to meet a variety of business and residential needs.

TXU Communications (formerly, Lufkin-Conroe Communications) has a 104-year tradition of combining the latest in telecommunications technology with unparalleled customer service to provide the finest integrated communications services to customers across Texas. We offer a complete range of services, including local telephone, long distance, Internet access, paging, data transport, and web services. Since the company's beginning in 1898, we have grown to serve more than 115,000 access lines.

TXU Communications also operates an 850-mile proprietary, state-of-the-art fiber optic network that is joined, through alliances with other communications providers, to a fiber optic network that spans more than 2,800 miles in Texas. The company is a subsidiary of TXU, which has assets of \$40 billion and is one of the largest investor-owned energy services companies in the world.

TXU Communications looks forward to building a lasting and successful relationship with you as it brings its high-quality long distance service and extraordinary customer care to your area. We understand that you have a choice of multiple long distance carriers and that you can change your preferred carrier at any time. If you would like additional information about TXU Communications, please call our customer service department at 1-877-888-9777.

Sincerely,
TXU Communications

CERTIFICATE OF SERVICE

I, Vera P. Morris, hereby certify that I am an employee of the law firm of Blooston, Mordkofsky, Jackson & Dickens and that a copy of the foregoing **“REQUEST FOR EXPEDITED WAIVER”** was served this 14th day of April, 2000, by hand delivery, to the persons listed below.

Anita Chang
Common Carrier Bureau, Enforcement Division
Federal Communications Commission
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Washington, DC 20554

ITS
1231 20th Street, NW
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Vera P. Morris