

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 Change )  
Provisions of the )  
Telecommunications Act of 1996 )  
)  
Primus Telecommunications, Inc. )  
Petition for Waiver )

CC Docket No. 94-129

**EMERGENCY PETITION FOR WAIVER  
OF THE SUBSCRIBER CHANGE PROVISIONS OF THE  
TELECOMMUNICATIONS ACT OF 1996 AND THE FCC'S RULES**

Primus Telecommunications, Inc. ("Primus"), by its attorneys and pursuant to Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, hereby respectfully requests a limited waiver of the Commission's authorization and verification rules, 47 C.F.R. §§ 64.1100-64.1190, to the extent necessary to enable the expeditious transfer of the interexchange subscriber base of Network International, L.C. ("Seller") to Primus without first obtaining such subscribers' authorization and verification.

As demonstrated below, Seller's principal owner has experienced serious health problems that make it impossible for him to continue to lead Seller's business operations. As a result, Seller's customers face the prospect of diminished customer service levels in the absence of the Commission's expeditious grant of this waiver request and completion of the transaction. Primus fully satisfies the Commission's good cause standard for securing a waiver of the authorization and

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verification rules. Thus, grant of this Emergency Petition is in the public interest. <sup>1/</sup>

## BACKGROUND

Primus is a facilities-based global total service provider offering international and domestic data and voice telecommunications services to business and residential retail customers and other carriers located in the United States, Canada, Brazil, the United Kingdom, continental Europe, Australia and Japan. Utilizing its network, along with resale arrangements and foreign carrier agreements, Primus provides service to approximately two million customers worldwide. In the United States, Primus is licensed to provide interexchange service in 49 states and the District of Columbia, and holds multiple Section 214 licenses, including Authorization No. ITC-96-374 to provide global facilities-based telecommunications service and Authorization No. ITC-95-6310 to resell the public switched services of various carriers.

Primus has entered into an agreement to purchase selected assets, including the customers, of Seller, a provider of resold international, interstate and intrastate interexchange services in the United States. Grant of the instant Petition will allow Primus to acquire Seller's interexchange customer base in a manner that minimizes the impact on consumers while ensuring full compliance with the Commission's anti-slamming rules.

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<sup>1/</sup> See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

As noted above, Seller principal owner, Mark Sandler, has suffered increasingly severe health problems that have required hospitalization several times this year and have hampered his ability to manage Seller's operations. Following the recommendation of his doctors, Mr. Sandler has decided to focus his energy on his health and effecting a full recovery from his illness. Without immediate relief in the form of a qualified buyer, Mr. Sandler's health is put at greater risk, and Seller's customers face the prospect of diminished customer service levels from Seller.

As soon as the Commission is in a position to grant the relief requested in this Emergency Petition, Primus intends to send letters to the subscribers being acquired from Seller to notify them of the carrier change. These customers will be informed that (1) a carrier change is taking place; (2) the carrier change will not result in any new charges to the customer; (3) the customer has the right to select a carrier other than Primus, but that changing to another provider may result in the customer incurring a fee; and (4) Primus will establish an toll-free number that customers can call with any questions. A copy of the form of this letter is attached hereto as Exhibit A.

Following the transfer to Primus of Seller's customer base, Primus also will provide customers with a follow-up letter that will confirm the transfer and contain additional information about Primus. A copy of the form of this letter is attached as Exhibit B.

## DISCUSSION

Under Sections 64.1000-64.1190 of the Commission's rules, carriers are required to verify all preferred carrier change orders before executing such changes. The Commission has discretion and authority to grant a waiver of this requirement, however, if special circumstances exist and approval will serve the public interest. 2/ Primus requests a waiver because requiring it to obtain verification from each of the thousands of subscribers being transferred from Seller, before Primus can begin to provide service to those subscribers would impede the seamless transfer of those customers and disrupt their ability to place long distance and other calls. Considering the size of Seller's subscriber base, Primus is unlikely to be able to affirmatively contact, solicit and obtain appropriate verification from each subscriber on an expeditious basis. Therefore, absent a waiver, in order to avoid running afoul of the Commission's slamming rules, Primus would be required to discontinue service to any subscriber that it is unable to contact before acquiring the assets of Seller. As a practical matter, this transaction could not be completed, to the detriment of Seller's current customers.

As mentioned above, the Seller subscribers from whom verification would otherwise be required will receive prior notification of the change in service providers, and they will be informed that they are free to select another carrier. Customers will again be notified following the transfer through receipt of a follow up letter. Primus also will address and attempt to resolve all customer inquiries regarding the impact of the migration of their service and the change in providers.

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2/ *Id.*, 418 F.2d at 1159.

Seller will retain responsibility for addressing and resolving any customer complaints or other customer issues arising from the service provided prior to the transfer date. These steps will ensure that the rights of these subscribers are adequately protected.

Finally, the circumstances justifying this waiver request are similar to those the Commission has found sufficient in the context of many other similar petitions for waiver of the authorization and verification rules. <sup>3/</sup> In fact, the precarious health of Seller's principal owner suggests an even greater urgency than exhibited in those cases for expeditious grant of this request.

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<sup>3/</sup> See, e.g., *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 – Sprint Comms. Co., Petition for Waiver*, CC Docket No. 94-129, Order, DA 99-2178 (rel. Oct. 20, 1999); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 – AT&T Corp. Petition for Waiver*, CC Docket No. 94-129, Order, 14 FCC Rcd 13925 (1999); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 – MCI WorldCom, Inc., Petition for Waiver*, CC Docket No. 94-129, Order, 14 FCC Rcd 12264 (1999).

## CONCLUSION

For the foregoing reasons, Primus respectfully requests that the Commission waive Sections 64.1100-64.1190 of its rules to the extent necessary to permit the expeditious transfer of Seller's interexchange subscriber base from Seller to Primus without first obtaining such subscribers' authorization and verification.

Respectfully submitted,

Primus Telecommunications, Inc.



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Its Attorneys

Dated: November 17, 2000

## ATTACHMENT A

### [PRIMUS LETTERHEAD]

November \_\_, 2000

Dear [Customer]:

As President of Primus Telecommunications, Inc., I want to take this opportunity to welcome you as a new customer. Primus and its affiliates are committed to providing high quality, technologically advanced telecommunications services to their customers, and we are committed to serving all your communications needs.

Primus recently entered into an agreement to purchase selected assets from your existing long distance telecommunications provider, Network International. As a result of this arrangement, Primus will be assuming the responsibility for handling all domestic and international long distance services currently provided to you by Network International. The transfer from Network International to Primus is expected to take place at the end of December, 2000. You will be notified in a subsequent letter that the transfer has taken place.

Primus is committed to ensuring that the transfer process is as smooth and transparent to you as possible. No new charges will appear on your bill as a result of the transfer. You will continue to receive service under the same rates, terms and conditions that you have enjoyed up to now with Network International. The only change you may notice is that Primus's name will replace the Network International name on your bill.

While you have the right to select another long distance carrier for your service needs, I want to assure you that Primus is committed to satisfying all of your requirements. We plan soon to make available an even wider array of products than you currently enjoy, and we expect that these products may lower the price you pay for domestic and international long distance service.

Primus is proud of the service it provides and looks forward to serving you in the future. If you have any questions about the content of this letter or any of our services, please contact us at 1-800-XXX-XXXX. We look forward to serving you.

Very truly yours,

---

K. Paul Singh  
President  
Primus Telecommunications, Inc.

## ATTACHMENT B

[ON PRIMUS LETTERHEAD]

[Date]

Dear [Customer]:

As President of Primus Telecommunications, Inc. ("Primus"), I want to follow up on my letter to you of November \_\_, 2000, to inform you that Primus has completed its acquisition of selected assets from your existing long distance provider, Network International. Thus, from now on Primus will be handling all your domestic and international long distance communications needs.

As we indicated in our earlier letter to you, no new charges will appear on your bill as a result of the transfer from Network International to Primus. You will continue to receive service under the same rates, terms and conditions that you have enjoyed up to now with Network International. The only change you may notice is that Primus's name will eventually replace the Network International name on your bill.

The transfer of your account in this manner was approved by the Federal Communications Commission. While you have the right to select another long distance carrier for your service needs, I want to assure you that Primus is committed to satisfying all of your requirements. We plan soon to make available an even wider array of products than you currently enjoy, and we expect that these products will lower the price you pay for domestic and international long distance service.

Primus is proud of the service it provides and looks forward to serving you. If you have any questions about the content of this letter or any of our services, please contact us at 1-800-XXX-XXXX.

Very truly yours,

\_\_\_\_\_  
K. Paul Singh  
President  
Primus Telecommunications, Inc.