

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Evans Communications, Request for Waiver of) CC Docket No. 00-257
Section 64.1120(e)(3)(v) of the Commission's)
Rules)

PETITION FOR WAIVER

Pursuant to Section 1.3 of the FCC's rules, 47 C.F.R. § 1.3, Evans Communications ("Evans"), by its attorneys, hereby requests a waiver of Section 64.1120(e)(3)(v) of the FCC's rules as described further below.

DISCUSSION

Evans, through its division Evans Long Distance, provides interexchange service to customers in Patterson, California and its surrounding areas. Evans Communications is wholly owned by Evans Telephone Holdings, Inc. which is wholly-owned by Country Road Communications, LLC. Evans' sister company, Global Valley Networks, Inc. (formerly Evans Telephone Company), is a rural, local exchange carrier and also provides service in the Patterson, California area.

Pursuant to a corporate reorganization, Evans Telephone Holdings, Inc. has created a new entity, GVN Services, Inc. d/b/a Global Valley Long Distance ("Global Valley Long Distance"). It intends to assign the internet and interexchange assets of Evans, including its interexchange customers, to Global Valley Long Distance upon the company receiving the necessary approval from the State of California's Public Utility Commission ("PUC") to provide intrastate,

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interexchange service.¹ Because this assignment will result in a *pro forma* change in the entity that provides long distance service (from Evans to Global Valley Long Distance), Evans will notify its customers at least 30 days in advance of such change in service provider pursuant to the FCC's streamlined procedure for its slamming rules found in Section 64.1120(e) of the FCC's rules.

Evans requests a waiver of Section 64.1120(e)(3)(v), which requires that Evans inform its customers in the prior notification letter that any existing preferred carrier freeze will be lifted and that its customers will need to contact the local exchange carrier to arrange a new freeze. The FCC implemented this requirement under the assumption that a freeze would have to be lifted for the transfer to occur and that customers would have to request new freezes.² It appears that this assumption may be based on the contemplation of subscriber bases transferring in substantial transactions. Here, where the transaction is *pro forma*, it is technically possible for the *pro forma* assignment to Global Valley Long Distance to occur without Global Valley Networks, Inc. removing the preferred carrier freezes previously requested by customers.³

¹ Because this transaction will involve only a *pro forma* assignment of the international Section 214 authorization, prior FCC approval is not required. See 47 C.F.R. § 63.24(d). Evans will notify the FCC within 30 days after the *pro forma* assignment occurs pursuant to Section 63.24(e). The FCC does not require notification for *pro forma* transactions involving domestic Section 214 authorizations. *Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations, Report and Order*, 17 FCC Rcd 5517, ¶¶ 50-54 (2002) ("*Further Streamlining*"). Similarly, a discontinuance of service is not occurring. Pursuant to the FCC's policy in *Further Streamlining* (¶¶63-64), Evans will not send a discontinuance notification to its customers.

² *2000 Biennial Review - Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers, Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, First Report and Order in CC Docket No. 00-257 and Fourth Report and Order in CC Docket No. 94-129, 16 FCC Rcd cite 11218, ¶ 28 (2001)

³ Global Valley Long Distance will be assigned a new carrier identification code ("CIC"). However, when the customers' CIC is changed to Global Valley Long Distance, the field identifying the carrier freeze can be left in place.

In essence, the change customers will experience is a name change in their carrier. The rates, terms, and conditions will be the same. Evans has several thousand customers with preferred carrier freezes in place. Should all of the customers be required to request new freezes from the local carrier, Global Valley Networks, Inc., it would be a large task for this small company to handle. For this reason alone, Evans believes it is in the public interest to grant the requested waiver. However, it also is in the public interest because this is a *pro forma* transaction. Preferred carrier freezes are in place (at a subscriber's choosing) as an extra tool to prevent a substantial change in carriers from occurring without a subscriber's consent (*i.e.*, slamming).⁴ Here, consumers will not be experiencing the substantial change they were trying to avoid by requesting their freezes.

In substitution for the language in 63.1120(e)(3)(v), Evans proposes to inform customers in the notification letter that those customers with preferred carrier freezes will be receiving service from Global Valley Long Distance unless they choose a new provider and that their preferred carrier freezes will remain in place, unless they call their local exchange carrier, Global Valley Networks, Inc., and request that the freeze be removed pursuant to the removal procedures that always are available to them.⁵

CONCLUSION

For the reasons described above, Evans has demonstrated good cause for the FCC to grant a waiver of Section 63.1120(e)(3)(v). It is expected that the PUC will grant the necessary authority for Global Valley in the next several weeks, and Evans hopes to send its customer

⁴ With a freeze in place, a third party carrier could not request a change in the CIC without the freeze being lifted by the consumer.

⁵ See 47 C.F.R. § 64.1190(e) (providing for acceptance of an oral request for freeze removal, including third party verification).

notification letters shortly thereafter. Therefore, it requests an expeditious grant of the instant waiver request.

Respectfully submitted,

Evans Communications

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