

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the matter of)	
)	
Implementation of the Subscriber Carrier Selection)	CC Docket No. 94-129
Changes Provisions of the Telecommunications Act)	
of 1996)	
)	
Policies and Rules Concerning Unauthorized)	CC Docket No. 00-257
Changes in Consumers Long Distance Carriers)	

**TELSCAPE'S PETITION FOR A WAIVER OF THE ADVANCE
NOTIFICATION REQUIREMENTS OF 47 C.F.R. § 64.1120(e)**

To avoid disruption of local telephone service to customers of Fones4All Corp. ("Fones4All"), FRN: 0008120263, a competitive local exchange carrier that is in foreclosure and has been threatened with disconnection by its underlying carriers, Telscape Communications, Inc. ("Telscape"), FRN: 0005040522, which is also a competitive local exchange carrier, requests that the Commission grant Telscape a waiver of the 30-day advance notice requirement set forth in 47 C.F.R. § 64.1120(e).¹ Effective March 3, 2008, Telscape entered into an agreement to acquire a substantial portion of Fones4All's customer base, consisting of approximately 9,500 end users, primarily low income residential subscribers. Appropriate notice to all affected customers has been mailed on March 4, 2008, however, transferring the customers to Telscape's network before the end of the full 30-day notice period is likely to be necessary in

¹ Telscape and Fones4all also are submitting an application to the Commission for approval of the transfer of control over the affected customer base and are requesting special temporary authority to enable Telscape to acquire the customer base before action on the application. Telscape has requested, and expects to receive, similar authorizations from the California Public Utilities Commission ("CPUC").

order to preserve service. Therefore, a waiver of the advance notice requirement is in the public interest.

Fones4All provides residential local exchange services to customers in California. By a ruling issued on January 23, 2008, in Case No. 07-12-030 before the CPUC, Fones4All effectively was directed to make arrangements for the transfer its customers to another carrier or apply for authority to discontinue service in light of its apparent inability to pay amounts allegedly due and owing to underlying service providers. Then, on February 15, 2008, Fones4All received a notice of foreclosure from its largest secured creditor. Consequently, there is an urgent need for Fones4All's customers to transfer to another service provider in order to avoid loss of dialtone.

Under the Commission's streamline procedures for transferring a carrier's customer base, notice must be provided to the Commission and the affected customers at least 30 days prior to the proposed transfer. 47 C.F.R. § 64.1120(e)(1), (e)(3). However, Telscape believes that it may not be possible to avoid discontinuation of service to affected customers if Telscape is required to wait the entire 30-day period before transferring customers.

In similar circumstances, the Consumer and Governmental Affairs Bureau (the "Bureau"), under its delegated authority, has granted waivers of the 30-day advance notice requirement in order to preserve dialtone, stating that it is "unlikely that the affected customers will suffer harm from receiving less than 30 days notice of the transfer" and that "any such harms would be outweighed by the benefits of a seamless transfer of service." *See, e.g., Qwest Corporation and Qwest Long Distance Petition for Waiver*, 19 FCC Rcd 8148 (2004).

The very same considerations apply here to Fones4All's customers. Accordingly, Telscape respectfully submits that the Commission should grant Telscape a waiver of the carrier

change authorization and verification rules so that the Fones4All customers who are subject to the agreement between Telscape and Fones4all can be transferred before the end of the normal 30-day period.

Respectfully submitted this 4th day of March 2008.

GOODIN, MACBRIDE, SQUERI,
DAY & LAMPREY, LLP
John L. Clark
505 Sansome Street, Suite 900
San Francisco, California 94111
Telephone: (415) 765-8443
Facsimile: (415) 398-4321
E-Mail: jclark@goodinmacbride.com

By 
John L. Clark

Attorneys for Telscape Communications,
Inc.