

February 28, 2003

VIA OVERNIGHT DELIVERY

Mr. Thomas Dorman
Executive Director-Kentucky Public Service Commission
P.O. Box 615
211 Sower Boulevard
Frankfort, KY 40602-0615

RECEIVED

FEB 28 2003

PUBLIC SERVICE
COMMISSION

Re: ComTech21, LLC Notification of Transfer of Customer Base from AGSi.

Dear Mr. Dorman,

ComTech21, LLC ("ComTech21") submits this notification to advise the Commonwealth of Kentucky Public Service Commission (the "Department") of a transaction whereby AGSi, d/b/a Alliance Group Services, Inc. will transfer its long distance customers to ComTech21.¹

Upon review of the Kentucky statutes and the Department's rules, it is the understanding of ComTech21 that prior Department approval may not be required for the transfer of customers from AGSi's customer base to ComTech21 as described herein.

Description of Parties

1. **ComTech21, LLC**

ComTech21 is a Delaware Limited Liability Corporation. ComTech21 maintains its principle offices at One Barnes Park South, Wallingford, Connecticut 06492.

ComTech21 is authorized to provide resold interexchange services in 48 U.S. states. ComTech21 is authorized to provide interexchange telecommunications services in the Commonwealth of Kentucky.² ComTech21 is authorized by the Federal Communications Commission ("FCC") to

¹ Concurrent with this filing, ComTech21 has petitioned the Federal Communications Commission to grant a limited waiver of its subscriber carrier selection rules (47 C.F.R. §§ 64.1100 through 64.1190) and relevant Orders to the extent necessary to permit ComTech21 to transfer the customers of AGSi to ComTech21's customer base without obtaining the customers' authorization and verification.

² ComTech21's application for a Certificate of Public Convenience and Necessity was approved on August 24, 2000 / 61-0865.

provide telecommunications services.³ ComTech21 is an experienced and duly certified telecommunications carrier and has sufficient managerial and financial qualifications to acquire the customer assets of AGSi, as described below, and to ensure the uninterrupted provision of telecommunications services. Further information concerning ComTech21's managerial, technical and financial qualifications to provide telecommunications services was filed with ComTech21's Application with the Department.

2. AGSi Company

AGSi, a Delaware Corporation with principle offices located at 1221 Post Road East, Westport, Connecticut 06880, is authorized as a switchless reseller in Kentucky.⁴

Description of the Transaction

Pursuant to an agreement executed between ComTech21 and AGSi, AGSi intends to transfer its customers to ComTech21. AGSi has agreed to divest certain retail assets to ComTech21 pursuant to the agreement. ComTech21 intends to migrate approximately Eighty-four (84) Kentucky customers from AGSi to ComTech21. ComTech21 will provide interexchange service to these customers under the same or better rates as provided by AGSi.

Prior to the transfer of these customers to ComTech21, ComTech21 will provide them with notice of the changes in their interexchange service provider. These customers will be notified via letter that states: (a) the quality of service will remain the same and that ComTech21 will continue to provide service to the customers with the same or better service and rates currently provided to them by AGSi; (b) they have the right to switch to the interexchange carrier of their choice; (c) ComTech21 will reimburse customers for any primary interexchange carrier ("PIC") change charges if imposed by local exchange carriers ("LECs") in connection with this transaction for a period of thirty (30) days; and (d) the customers may contact ComTech21 via a toll-free number with any questions regarding the switch over. ComTech21 will also amend its tariff, if necessary, to include the applicable AGSi services and rates for those customers. After consummation of the transfer, ComTech21 will send another notification letter welcoming customers and reiterating statements (a) through (d) above. Therefore, the transaction will be completely transparent to customers and will not involve a change in the manner and quality in which AGSi customers will receive their telecommunications services.

As such, this transaction will neither disrupt the service nor cause inconvenience or confusion to AGSi customers. Similarly, the proposed transaction will have no effect on the operation of ComTech21, which will continue to provide reseller interexchange telecommunications services to customers pursuant to its existing Kentucky authorization.

³ ComTech21 holds Section 214 global resale authority pursuant to Section 214 of the Communication Act of 1934, as amended. FCC File No. ITC-214-20000419-00289, Public Notice Report No. TEL-00242 (June 7, 2000) (global or limited global facilities-based and resale service).

⁴ AGSi was granted authority as a switchless reseller on December 21, 1998. Tariff filing T-59-1128

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Public Interest Considerations

Telecommunications customers and the general public will realize significant benefits from the transfer of AGSi customers to ComTech21. Consummation of the proposed transaction will serve the public interest by allowing AGSi customers to continue to receive service, under the same or better rates. The customers will be sufficiently notified of the transaction and their rights before and after the transfer. As a result of the transfer, there is no change in the quality of service provided to customers and the customers are protected because they are being served by an experienced and qualified carrier. Hence, the public interest is served By ComTech21's managerial, technical, and financial ability to assume full provision of service to AGSi's customer base.

An original and one (1) copy of this letter are enclosed. Please date stamp the enclosed extra copy of this letter and return it in the self-addressed, stamped envelope. If you have any questions or comments regarding this filing, please do not hesitate to contact John Withington, Manager Regulatory Compliance, at 203-679-7257.

Respectfully Submitted,



Marie Marcarelli
E.V.P.
ComTech21, LLC

**Before the
Federal Communications Commission
Washington, D.C.20554**

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	CC Docket No. 00-257
Selection Changes Provisions)	
Of the Telecommunications Act of 1996)	
)	
ComTech21, LLC)	
Request for Waiver)	

PETITION FOR WAIVER

I. Introduction

ComTech21, LLC (“ComTech21” or “Petitioner”) respectfully requests a limited waiver of the Commission’s Rules, 47 C.F.R. §§ 64.1100 through 64.1190 and relevant Commission Orders applicable to the submission of changes in a subscriber’s preferred carrier (collectively hereafter “Rules”). Specifically, ComTech21 seeks a waiver to the extent necessary to permit it to transfer the customers of Alliance Group Services Inc., d/b/a “AGSi” to the Petitioner’s customer base without first obtaining the customers’ authorization and verification.¹

¹ The FCC’s verification rules prohibit a telecommunications carrier from submitting a preferred carrier change order unless the carrier has obtained either: (1) the subscriber’s written letter of agency; (2) the subscriber’s electronic verification via a toll-free telephone number used exclusively to verify subscriber carrier changes; or (3) the subscriber’s oral authorization to submit the preferred carrier change order from an appropriately qualified independent third party that confirms and includes appropriate verification data – *e.g.*, the subscriber’s date of birth or social security number. 47 C.F.R. § 64.1150.

As demonstrated herein, Petitioner fully satisfies the special circumstances required for a waiver of the Commission's rules as stated in *WAIT Radio v. FCC*. Grant of the instant Petition therefore will serve the public interest.² Moreover, Petitioner's request for a waiver is substantially identical to waivers of these rules previously granted by the Commission to other carriers.³

II. Background

Petitioner currently provides resold interexchange and international telecommunications services to customers throughout the United States. ComTech21 is a Delaware limited liability corporation. ComTech21 is authorized to provide resold intrastate interexchange service in more than 48 states and international service under its Section 214 authority issued by the Commission.⁴

Pursuant to an agreement to be executed with AGSi, the parties intend to transfer customer accounts to the Petitioner. Petitioner may migrate up to approximately 15,406 customers, from AGSi to Petitioner. Unless the FCC grants this Petition, these customers' interexchange services may be interrupted or discounted at some point in the future, and the customer may be subject to higher rates.

² *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular Telephone Co. v. FCC*, 897 F. 2d 1164 (D.C. CIR. 1990).

³ See *infra* note 6.

⁴ See ITC-214-20000419 (granted effective June 7, 2000).

In accordance with the Commission's prior Orders in this docket, Petitioner will notify all of the affected 15,406 customers prior to their transfer to Petitioner, via a letter that states: (a) the customers will receive the same or better services and rates upon transfer to ComTech21; (b) they have the right to switch to the interexchange carrier of their choice, (c) Petitioner will reimburse a customer for any preferred interexchange carrier change charges incurred from the local exchange carrier ("LEC") if a customer decides to change his or her preferred interstate carrier within 30 days from the transfer date; and (d) customers may contact Petitioner via a toll-free number with any questions regarding the transfer.⁵ ComTech21 will also amend its FCC tariffs, if required, to include the applicable AGSi services and rates for these customers. After consummation of the sale, Petitioner will send another notification letter welcoming customers to Petitioner and reiterating statements (a) through (d) above. Sample notification letters are attached as Exhibit A to this Request for Waiver of the Commission's Rules.

III. Special Circumstances Exist to Grant the Instant Waiver Request

The FCC has authority to waive a rule if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest. *WAIT Radio* at 1159; *Northeast Cellular Telephone Co.* at 1166. The Petitioner asserts that special circumstances exist for waiver of 47 C.F.R. §§ 64.1100 through 64.1190. First, a waiver of these rules will enable

⁵. *See infra* note 6.

customers to continue to receive the same services and the same or better rates from Petitioner without a possible disruption in service. In addition, requiring Petitioner to obtain verifications from each of these approximately 15,406 customers before it can begin to provide them service may delay the transfer to Petitioner, interrupt customers' services, and preclude their ability to make interexchange and international calls.

Waiver of these rules will serve the public interest because all AGSi customers switched to Petitioner will receive prior notification of the change in carriers, be informed of their ability to select the interexchange carrier of their choice, be reimbursed for any preferred carrier change charges imposed by LECs, and be given a toll-free number to contact Petitioner with any questions regarding the transition. Moreover, after customers are switched to Petitioner, they will receive a second letter again informing them of this information. These letters will ensure that customers are informed of the process and that their rights are adequately protected. By granting the transfer of these customers via notification as described in this Petition, the Commission will ensure that the underlying policy goals of the carrier change rules are served in a more efficient fashion that will permit Petitioner to seamlessly transfer AGSi's customers to Petitioner without any disruption in service.

Furthermore, the circumstances involved in the instant Petition are similar to those in which the Commission has previously found sufficient to justify a waiver of these rules for other carriers.⁶ Where: (1) an interexchange carrier has entered into an agreement to purchase assets, including the customer base, from another interexchange carrier, and (2) the purchasing carrier has pledged to notify the customers of the change in providers, and (3) waiver of the Commission's authorization and verification rules would permit a smooth transition between providers, without a loss of service or rates, the Commission has consistently found that the special circumstances exist warranting a waiver, and that grant of the waiver would serve the public interest.

IV. Conclusion

Petitioner respectfully requests that the Commission grant a limited waiver of the authorization and verification requirements of the Commission's Rules, 47 C.F.R. §§ 64.1100 through 64.1190, and relevant Orders to the extent necessary to permit the Petitioner to transfer selected customers of AGSi to the Petitioner's customer base without first obtaining the customers' authorization and verification. For the reasons stated herein, grant of this request for a waiver of the Commission's Rules is in the public interest.⁷

⁶ See Orders issued in *Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, International Exchange Commissions, Inc. Request for Waiver*, Order, CC Docket No. 94-129, granting waiver of the Commission's authorization and verification requirement to various carriers, including US West Communications, Inc. (DA 00-1690, rel. July 28, 2000) and Telephone USA of Wisconsin, LLC (DA 00-1679, rel. July 28, 2000).

⁷ See, e.g., *International Exchange Communications, Inc. Request for Waiver*, Order, CC Docket No. 94-129, DA 99-1549 (rel. Sept. 10, 1999); *MCI WorldCom Inc. Request for waiver*, Order, CC Docket No. 94-129, DA 99-1819 (rel. Aug. 6, 1999).

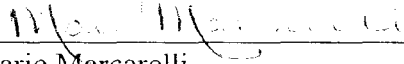
Respectfully Submitted,

By: Marie Marcarelli
Marie Marcarelli
Executive Vice President
ComTech21
One Barnes Park South
Wallingford, CT. 06492
Telephone: 203-679-7201

Date: 8/28/03

VERIFICATION

I, Marie Marcarelli, being first duly sworn, state that I am the Executive Vice-President of ComTech21, LLC, the Petitioner in the above Petition, and that I am authorized to make this Verification on behalf of Petitioner, that I have read the foregoing Petition and know the contents thereof, and that the same are true and correct to the best of my knowledge, information and belief.



Marie Marcarelli
Executive Vice President
ComTech21, LLC

ATTACHMENT A
CUSTOMER NOTIFICATION LETTERS

COMTECH21, LLC

NOTICE OF CHANGE IN LONG DISTANCE SERVICE PROVIDERS

CURRENT DATE

Dear Current Alliance Group Services Customer:

ComTech21 and Alliance Group Services are pleased to announce that as of **DATE**, Alliance Group Services customer's will begin receiving long distance service from ComTech21. Through an agreement between ComTech21 and Alliance Group Services, ComTech21 will begin providing long distance services to the customers of Alliance Group Services.

Please note the following important information:

1. ComTech21 will provide you with the same or better high quality telecommunications services as Alliance Group Services Inc.
2. The long distance services will be provided at the same or better rates than you currently receive from Alliance Group Services Inc.
3. In the event that you would prefer to use another company as your long distance carrier, you have the right to switch to a long distance carrier of your choice.
4. ComTech21 will reimburse you for any primary long distance carrier change charges if they are imposed by your local exchange carrier in connection with the switch over to ComTech21.
5. You may contact ComTech21 at its toll-free number, 1-877-694-4121, with any questions regarding your change in service to ComTech21.

ComTech21 extends a special welcome to all Alliance Group Services, Inc. customers. We realize you have a choice of telecommunications carriers, and we appreciate your business. Please call ComTech21 at its toll-free customer service number, 1-877-694-4121, if you have any concerns or questions.

Sincerely,

Maria DelNero
Customer Service Manager

COMTECH21, LLC

NOTICE OF CHANGE IN LONG DISTANCE SERVICE PROVIDER

CURRENT DATE

Dear Long Distance Customer formerly served by Alliance Group Services Inc:

ComTech21 is pleased that, as of **DATE**, you have begun receiving long distance service from us. Through an agreement between ComTech21 and Alliance Group Services Inc., ComTech21 has begun providing long distance services to the customers of Alliance Group Services Inc.

In order to make this transition as comfortable to you as possible, we would like you to be aware of the following important information:

1. ComTech21 will provide you with the same or better high quality telecommunications services as Alliance Group Services did.
2. The long distance services will be provided at the same or better rates than you previously received from Alliance Group Services Inc.
3. In the event that you would prefer to use another company as your long distance carrier, you have the right to switch to a long distance carrier of your choice.
4. ComTech21 will reimburse you for any primary long distance carrier change charges if they were imposed by your local exchange carrier in connection with the switch over to ComTech21.
5. You may contact ComTech21 at its toll-free number, 1-877-694-4121, with any questions regarding your change in service to ComTech21.

ComTech21 extends a special welcome to all former Alliance Group Services Inc. customers. We realize you have a choice of telecommunications carriers, and we appreciate your business. Please call ComTech21 at its toll-free customer service number, 1-877-694-4121, if you have any concerns or questions.

Sincerely,

Maria DelNero
Customer Service Manager