

UT-020759 (pw)

~~6-11-02~~

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June 11, 2002

**BY OVERNIGHT DELIVERY**

Carole Washburn, Executive Director  
Washington Utilities & Transportation Commission  
1300 South Evergreen Park Dr. S.W.  
Olympia, WA 98504

RECEIVED  
REGISTRY DIVISION  
JUN 11 9 11AM '02

Re: Petition of NUI Telecom, Inc. for waiver of requirements of  
WAC Section 480-120-139

Dear Ms. Washburn:

On behalf of NUI Telecom, Inc. and Telcorp, Ltd., enclosed please find an original and three (3) copies of the referenced Petition.

Please date stamp and return the enclosed extra copy of this letter in the envelope provided as evidence of filing.

Should you have any questions concerning this filing, please call. Thank you for your assistance with this matter.

Sincerely,

  
EllenAnn G. Sands

Enclosures

cc: Joseph Inguagiato  
Patrick Crocker

**BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of: )  
NUI Telecom, Inc. )  
for waiver of WAC §480-120-139 )

Docket No. \_\_\_\_\_

**PETITION**

Pursuant to WAC §§480-09-010(3), NUI Telecom, Inc. ("NUI"), a registered interexchange carrier, respectfully petitions the Commission for a waiver of the requirements set forth in WAC §480-120-139 regarding interexchange carrier selection. Granting NUI's petition is in the public interest.

**I. Factual Background**

NUI provides non-facilities based, resold intraLATA toll and interexchange telecommunications services in the State of Washington pursuant to the Commission's grant of authority in Docket No. UT-100451, granted February 27, 2002. NUI has agreed to purchase the telecommunications assets of Telcorp, Ltd. ("Telcorp"), including all customer accounts. Telcorp is a registered carrier in Washington pursuant to authority granted in Docket No. UT-980895. Pursuant to a written Asset Purchase Agreement, NUI has agreed to purchase the customer accounts from Telcorp. These accounts are comprised of all customers which have selected Telcorp as their preferred carrier for outbound and inbound calling. The special circumstances warranting a deviation or waiver from the Commission's rules and order include the need to provide seamless transitions of long distance service for the affected Telcorp customers.

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WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION  
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10:11:10 AM

NUI and Telcorp intend to notify all current end users of Telcorp of the event and also of any change in rates, by a separate mailing or by a bill insert. All present Telcorp products are included in NUI's. In no event will any transferred customers be charged higher rates as a result of the proposed transaction. The affected Telcorp customers will be informed that they will continue to receive quality long distance services at economical prices from NUI without interruption and without needed action. The affected Telcorp customers will also be reminded that they are under no obligation to take service from NUI, and that the customer is free to select another company to transmit their long distance calls.<sup>1</sup>

Additionally, NUI will send a "welcome letter" to the affected customers soon after the mailing described above. The "welcome letter" will reiterate the information disclosed in the first letter and provide the customer with other information on NUI services.<sup>2</sup>

## II. Argument

Pursuant to the Commission's rules, prior to submitting a preferred carrier change, carriers must verify the subscriber's authorization of the change by one of the methods set forth in WAC §480-120-139. WAC §§480-09-010(3) provides that "the Commission may make exceptions to these rules in individual cases when doing so is just and reasonable." The Commission may also grant an exemption to a competitive carrier from any rule if doing so is consistent with the public interest, the purposes of

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<sup>1</sup>See attached letter from NUI and Telcorp attached as Exhibit A.

<sup>2</sup>See attached "welcome letter" from NUI attached as Exhibit B.

the underlying regulation and applicable statutes. WAC §480-121-015.

NUI believes that its petition is in the public interest and that alternative regulatory methods will serve the same purpose in this instance as the Commission's primary interexchange carrier change verification rules. NUI requests that the Commission accept the notice and welcome letters attached as Exhibits A and B in lieu of verification procedures of WAC §480-120-139. The affected customers will be notified that their interexchange service will be continued with NUI at comparable or lower rates without action required of them; that they may receive a credit for any charge imposed by their local exchange carrier for changing their primary interexchange carrier; and that they are under no obligation to take service from NUI and may select another primary interexchange carrier. Customers will also be given Telcorp's and NUI's toll-free customer service numbers to call with any questions they may have about the transaction. NUI believes that the notice and welcome letters adequately serve the purpose of assuring that customers who remain with NUI genuinely want NUI as their interexchange and intraLATA toll carrier.

On the other hand, the Commission's verification rules would not be served by obtaining prior authorization and verification in order to switch the affected customers of Telcorp to NUI. Customers who may not understand the need to authorize the change in their intraLATA toll and interexchange service provider and who, therefore, fail to respond to a request for authorization, could lose their service or pay potentially higher rates.

Expedited action on this waiver is requested. Waiver of the Commission's verification rules in this instance allows NUI to provide a seamless transition to Telcorp customers, while ensuring that the affected customers clearly understand available options. Therefore, the Commission should grant NUI's request for expedited waiver of the Commission's verification rules set forth in WAC §480-120-139 to permit transfer of the affected customers.

Respectfully submitted,



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Metairie, Louisiana 70002  
Phone (504) 832-1984  
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Counsel for NUI Telecom, Inc. and Telcorp,  
Ltd.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my information and belief.



EllenAnn G. Sands  
Date: June 11, 2002  
Place: New Orleans, Louisiana

(Exhibit A)

NUI Telecom, Inc.

Telcorp, Ltd.

(Customer Name)

(Address)

Dear Customer:

On, [ ] NUI Telecom, Inc. ("NUI") and Telcorp, Ltd. ("Telcorp") entered into an agreement whereby, subject to the regulatory approval, the telecommunications assets of Telcorp will be acquired NUI, and NUI will become your telecommunication service provider.

This change in ownership will not affect or in any way disrupt your current service. No charges or fees will be imposed and no rate increase will occur as a result of this transaction. The toll free Customer Service number will remain the same and if you have any questions, please call one of our Customer Service Representatives at 1-800-[ ].

We at NUI Telecom, Inc. are pleased to welcome you to our team and would like to express our appreciation for allowing us the opportunity of being your telecommunication service provider. We are confident that you will be pleased with the high quality of our service.

(Exhibit B)

NUI Telecom, Inc.

(Customer Name)

(Address)

Dear Customer:

Welcome to NUI Telecom, Inc. **This letter is for your information only; no further action on your part is required.** As you are aware, on, [ ] NUI Telecom, Inc. ("NUI") and Telcorp, Ltd. ("Telcorp") entered into an agreement whereby, subject to the regulatory approval, the telecommunications assets of Telcorp will be acquired by NUI, and NUI will become your telecommunication service provider.

This change in ownership has taken effect and will not affect or in any way disrupt your current service. No charges or fees will be imposed and no rate increase will occur as a result of this transaction. The toll free Customer Service number will remain the same and if you have any questions, please call one of our Customer Service Representatives at 1-800-[ ].

You may receive a credit for any charge imposed by your local exchange carrier for changing your primary interexchange carrier. You have a choice of carriers. If you do not wish to remain a customer, you may change carriers within 30 days of the date of this notice and such change will be at the present carrier's expense.

We at NUI Telecom, Inc. are pleased to welcome you to our team and would like to express our appreciation for allowing us the opportunity of being your telecommunication service provider. We are confident that you will be pleased with the high quality of our service.