

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 26, 2006

IN RE:

**PETITION FOR WAIVER OF AUTHORITY RULE
1220-4-1-.08(1)(a)**

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**DOCKET NO.
06-00192**

**ORDER GRANTING PETITION OF ITC^DELTACOM COMMUNICATIONS, INC.
WAIVER OF AUTHORITY RULE 1220-4-1-.08(1)(a)**

This matter came before Chairman Sara Kyle, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on August 23, 2006 for consideration of waiver of Authority Rule 1220-4-1-.08(1)(a) in connection with the notice of name change of ITC^DeltaCom Communications, Inc., d/b/a ITC^DeltaCom ("ITC^DeltaCom" or "Petitioner"). ITC^DeltaCom requested waiver of the portion of the rule requiring 30 days advance actual notice be given to each customer notifying customers of the pending name change.

Background

ITC^ DeltaCom Communications Inc., d/b/a ITC^DeltaCom filed a notice of name change on March 31, 2006 with the Authority. ITC^DeltaCom stated in the notice that the name change would be effective on April 3, 2006 and the Petitioner's name would change to DeltaCom Communications, Inc. Petitioner had provided notice to every Tennessee customer by mailing a postcard notifying all its customers of the name change. However, the postcard notice

was not provided to customers thirty days prior to the effective date of the name change as required by TRA Rule 1220-4-1-.08(1)(a). There were no other changes to any ITC^DeltaCom's Tennessee customers' services.

Authority Rule 1220-1-1-.05 allows the Tennessee Regulatory Authority to waive its rules to speed the disposition of any matter upon good cause. Petitioner, with the exception of not providing the notice to the Authority thirty days prior to the effective date of the name change, has complied with the remaining provisions of the Authority's rules. ITC^DeltaCom has provided customers with the appropriate customer notice by direct mail and has filed a copy of the notice in this docket.

The August 23, 2006 Authority Conference

At the regularly scheduled Authority Conference held on August 23, 2006, the panel voted 2-1 to approve the waiver of the notice requirement in TRA Rule 1220-4-1-.08(1)(a) for good cause shown.¹

IT IS THEREFORE ORDERED THAT:

1. The *Petition of ITC^DeltaCom Communications Inc. for Waiver of TRA Rule 1220-4-1-.08(1)(a)* is granted.


Sara Kyle, Chairman


Pat Miller, Director

* * * *

Ron Jones, Director

¹ Director Jones did not vote with the majority. Instead, he concluded that the Petition should be denied because the Authority's rules do not provide for waiver of Authority Rule 1220-4-1-.08(1)(a). Director Jones commented that the Authority rule relied upon by Petition, 1220-1-1-.05, applies through the definition of "these rules," contained in 1220-1-1-.01(3)(h), only to rule chapters 1220-1-1 through 1220-1-3.