

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: August 2, 2005**

REGULAR  CONSENT  EFFECTIVE DATE  NA

**DATE:** July 21, 2005

**TO:** Public Utility Commission

**FROM:** Celeste Hari

**THROUGH:** Lee Sparling, Phil Nyegaard, and Dave Booth

**SUBJECT:** INFLOW INC.: (Docket No. UM 1211) Petition for Waiver of Notice Requirement of OAR 860-032-0020.

**STAFF RECOMMENDATION:**

The Commission should grant the petition by Inflow, Inc. seeking waiver of the 90-day time period for customer notification of abandonment of service under OAR 860-032-0020(11)(a), and permit a notice period of 30 days.

**DISCUSSION:**

The Commission's abandonment of service rule for competitive telecommunications service providers is OAR 860-032-0020(11). OAR 860-032-0020(11)(a) requires a provider that intends to abandon (i.e., cease providing) any or all services in Oregon, to notify customers of its intent at least 90 days before abandoning the services. On July 14, 2005, Inflow, Inc. (Inflow) filed a petition requesting a waiver of the 90-day notice period. Inflow seeks permission to notify its customers 30 days before abandoning the provision of non-switched, private line, point-to-point data transmission service in Oregon.

The company provided a notice of intent to abandon service to its customers on July 18, 2005. The notice informed customers that the company intends to abandon service effective with an approval of the application for transfer of authority to provide telecommunications service in Oregon currently under Commission consideration in Docket CP 1293. The application has a requested effective date of August 19, 2005. Inflow filed a copy of the customer notification with the Commission on July 20, 2005, as

required by OAR 860-032-0020(11)(b). Inflow provides telecommunications service to 20 Oregon customers.<sup>1</sup>

Inflow plans to abandon the provision of telecommunications services in Oregon as an effort by the parent company, SunGard Data Systems Inc. (SDS), to streamline and gain efficiencies in its operations.<sup>2</sup> Part of the reorganization includes the transfer of Inflow's authority to provide telecommunications service in Oregon to SunGard NetWork Solutions Inc. (SNS). The transfer application is docketed as CP 1293. Inflow and SNS are affiliates under one parent company, SunGard Data Systems Inc. (SDS).

OAR 860-032-0020(11)(c) specifically allows an exiting telecommunications services provider, such as Inflow, to transfer customers to an affiliate such as SNS without affirmative approval from affected customers, but only if the exiting provider has complied with the Commission's customer notice requirements for abandonment of service. If the Commission grants Inflow's petition for waiver of the 90-day notice requirement and permits a notice period of 30 days, the company will have met all applicable Commission notice requirements. Inflow could then proceed with the transfer and abandonment of service effective August 19, 2005, which coincides with the requested effective date of the application for transfer in Docket CP 1293.

Inflow requests the waiver of the 90-day abandonment of service notice requirement in OAR 860-032-0020(11)(a) in order to coincide with the transfer of service application currently under Commission review. In addition, the company does not believe any customers are jeopardized by the shorter notice, particularly since there are just 20 customers in Oregon. The company also states that the service it provides is specialized and not for use by the mass market. The service is not for voice service and provides only incidental data transmission services to its 20 customers. The company states that any questions from its customers can easily be handled within the 30-day period.

The end result is that the customers will have seamless and non-interrupted service throughout the transaction. Customers will retain the same services, terms, and conditions that were in place before the reorganization.

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<sup>1</sup> The Commission granted Inflow, Inc. authority to provide non-switched, private line, point-to-point data transmission services telecommunications service on January 30, 2001. See docket CP 886, Order No. 01-144.

<sup>2</sup> Under the plan of reorganization, "all of the assets and liabilities of Inflow will be transferred to SunGard Availability Services LP (SASLP), an affiliate of SNS." SASLP will then move the telecommunications portion of the company to SNS. SNS will ultimately be the telecommunications service provider, while SASLP will provide other services and be the customer contact. All three companies, Inflow, SASLP, and SNS are wholly-owned subsidiaries of the parent company SunGard Data Systems Inc. (SDS).

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Waivers should not be granted routinely. However, given the small number of customers (20) involved in this transaction, the specialized nature of the services, and the fact that Inflow will abandon service as part of a complex reorganization plan, it is reasonable to allow 30 days notice. This should be an adequate amount of time to protect those customers and resolve any issues that may arise. The 30-day notice period should allow competing providers sufficient time to market their services to Inflow's customers before they are transferred to SNS.

**PROPOSED COMMISSION MOTION:**

Inflow's petition for waiver of the 90-day time period for customer notification of abandonment of service under OAR 860-032-0020(11)(a) be granted, and a notice period of 30 days be permitted.