

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of NOW Communications,)
Inc., Known in Missouri as Now Communications,)
Incorporated of Delaware, d/b/a Cleartel Communications,)
and nii communications, Ltd., for Approval to Cancel the)
Certificates of Service Authority of NOW Communications,) **File No. LD-2010-0163**
Inc. Known in Missouri as Now Communications,)
Incorporated of Delaware, d/b/a Cleartel Communications,)
and nii communications, Ltd., to Provide Telecommunica-)
tions Services in Missouri.)

NOTICE OF DEFICIENCY

Issue Date: November 30, 2009

On November 25, 2009, nii communications, Ltd., and NOW Communications, Inc., known in Missouri as Now Communications Incorporated of Delaware, d/b/a Cleartel Communications, submitted an Application for the Cancellation of Certificates of Service Authority and Withdrawal of Tariffs. The application indicates that nii is a Texas limited partnership, and that NOW is a Delaware corporation. The application was signed and verified by Randy Muench, President of nii and NOW. There is no indication that Mr. Muench is an attorney licensed in the State of Missouri.

A corporation and a limited partnership are artificial entities created by law. As such they cannot appear or act in person. Thus, in legal matters, they must be represented by licensed attorneys.¹ nii and NOW's application was filed by a non-attorney and therefore it must be considered null and void² unless the deficiency is corrected.³

¹ *Clark v. Austin*, 340 Mo. 467, 101 S.W.2d 977, 982-83 (1937); see also, Commission Rule 4 CSR 240-2.040(5) and Sections 484.010 and .020, RSMo.

² *Reed v. Labor and Industrial Relations Commission*, 789 S.W.2d 19 (Mo. banc 1990).

³ In addition, after investigating the facts contained in the application, the Commission's Staff may wish to make its own motion for cancellation.

The Commission will take no action on this application until the deficiency is corrected. The Commission will leave the file open until December 30, 2009, to allow nii and NOW to correct the deficiency. If no response is filed by that time, the Commission will reject the application and close the file.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'S. Reed', is positioned above the printed name of the Secretary.

Steven C. Reed
Secretary

(S E A L)

Dated at Jefferson City, Missouri,
on this 30th day of November, 2009.

Dippell, Deputy Chief Regulatory Law Judge