

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
November 13, 2000**

CASE NO: TM-2000-501

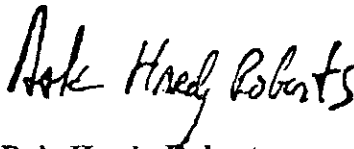
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Mary Ann (Garr) Young
William D. Steinmeier, P.C.
2031 Tower Drive
Jefferson City, MO 65110-4595

Enclosed find a certified copy of an ORDER in the above-numbered case(s).

Sincerely,

A handwritten signature in black ink that reads "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

**Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge**

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Joint Application)
of NOW Communications, Inc. and)
Tel-Link, L.L.C. for Approval of an)
Asset Transfer)

Case No. TM-2000-501

ORDER APPROVING TRANSFER OF ASSETS

NOW Communications, Inc. (NOW) and Tel-Link, L.L.C. (Tel-Link) filed a joint application on February 17, 2000, requesting an order approving a proposed transfer of assets wherein NOW proposes to acquire the assets of Tel-Link, including all customer accounts, certifications and licenses.

The joint application stated that NOW is a privately held Mississippi corporation with principal offices located at 713 Country Place Drive, Jackson, Mississippi 39208-6619. The joint application also stated that NOW is a non-dominant carrier that resells local service and intrastate, interstate and international long distance service purchased from various facilities-based carriers. The joint application also stated that NOW is authorized by the Federal Communications Commission (FCC) to provide international services as a non-dominant carrier and intrastate service provider pursuant to certification, registration or tariff requirements, or on an unregulated basis, in 14 states. The joint application stated that NOW is a certificated competitive interexchange carrier in Missouri,

which was granted its certificate of service authority in Case No. TA-98-502 on June 16, 1998. The joint application also stated that NOW is a certificated competitive basic local service provider in Missouri, which was granted a certificate of service authority in Case No. TA-98-390. The joint application stated that a copy of the Missouri Secretary of State's certificate authorizing NOW to do business in Missouri was filed in Case No. TA-98-390 and is incorporated into this case by reference. 4 CSR 240-2.060(1)(G).

The joint application stated that Tel-Link is a privately held Georgia limited liability company with principal offices located at 8601 Dunwoody Place, Suite 406, Atlanta, Georgia 30350. The joint application also stated that Tel-Link is a non-dominant carrier that resells local service and intrastate, interstate, and international long distance service purchased from various facilities-based carriers pursuant to the FCC's competitive carrier policies. The joint application stated that Tel-Link is authorized by the FCC to provide intrastate service, pursuant to certification, registration or tariff requirements, or on an unregulated basis, in 18 states. The joint application also stated that Tel-Link is a competitive basic local exchange telecommunications service provider in Missouri, granted a certificate of service authority in Case No. TA-98-176 on September 9, 1998. The joint application stated that Tel-Link's authority to do business in Missouri was provided in Case No. TA-98-176 and is incorporated into this case by reference. 4 CSR 240-2.060(1)(G).

The joint application stated that NOW proposes to accomplish this transaction in order to create a single, larger long distance carrier operating in a greater number of states, and therefore, believes that NOW will realize significant economic, marketing and administrative efficiencies. The joint application stated that NOW will continue to serve all of the present customer accounts of Tel-Link and that, in effect, the transfer of assets will be transparent to the customers of Tel-Link and NOW. In addition, the joint application stated that prior to the consummation of the transfer of assets, NOW intends to notify all current customers of Tel-Link of the transfer of assets, by either a separate mailing or a bill insert and that upon consummation of the proposed transaction, NOW intends to notify all current end users of Tel-Link of the transfer of assets.

The joint application stated that no customers of Tel-Link will experience any change in rates due to this transaction, and therefore, the transfer of assets should not cause any inconvenience or confusion to the customers of either Tel-Link or NOW. The joint application stated that approval of this transfer of assets will serve the public interest because it will enable NOW to provide a streamlined level of service through a larger telecommunications operation, a greater variety of service offerings, discounts on quantity ordering of underlying services and heightened operating efficiency which will enhance the overall capacity of NOW to compete in the marketplace. The joint application stated that there are no pending or final judgments or decisions against NOW from any state or federal agency

which involve customer service or rates. In addition, the joint application stated that the transfer of assets will not have any impact on the tax revenues of any political subdivision in the state of Missouri.

The joint application requested that the Commission transfer the certificate of service authority from Tel-Link to NOW and permit Tel-Link's tariffs to remain in place following the transfer of assets. The joint application stated that if the Commission does not permit transfer of Tel-Link's certificate, NOW will revise its tariffs to include all services and rates currently provided by Tel-Link to its customers in Missouri. The joint application requested expedited review and disposition of the instant application in order to allow the applicants to consolidate their respective operations as soon as possible.

On April 20, 2000, the joint applicants filed a supplement to their joint application, which stated that the joint applicants are requesting Commission approval of a proposed asset purchase acquisition whereby NOW will acquire the assets of Tel-Link, including the customer accounts. The supplement to the joint application stated that following the consummation of the transfer of assets, NOW will serve all of the present customer accounts of Tel-Link under NOW's tariff and bill customers under NOW's name. The joint applicants stated that NOW's tariff will be revised as required to offer the same services and rates currently being provided to Tel-Link customers.

The joint applicants stated that following the transfer Tel-Link will continue to exist under its present certification and Tel-Link's tariffs are intended to remain in place and in effect following the transfer of assets, to the extent permitted by the Commission. The joint applicants stated that Tel-Link's name will not change and the ownership of the stock of Tel-Link will remain the same following the transfer. The joint applicants stated that they are no longer requesting transfer of Tel-Link's certificate of service authority to NOW.

On August 4, 2000, the Staff of the Missouri Public Service Commission (Staff) filed its recommendation. The Staff noted that both NOW and Tel-Link are certificated in Missouri as competitive local exchange carriers (CLEC). Staff stated that the Commission may approve a transfer of assets, pursuant to Section 392.300, RSMo (1994), and 4 CSR 240-2.060(7)(F), along with relevant case law, if the transfer of assets is not detrimental to the public interest. State ex rel. Fee Fee Trunk Sewer Inc. v. Litz, 596 S.W.2d 466, 468 (Mo.App. E.D. 1980). Staff stated that it had reviewed the application for transfer of assets and the subsequent supplement to that joint application. Staff stated that it believes that the transaction will not be detrimental to the public interest. Staff recommended that the Commission enter an order that 1) approves the transfer of assets from Tel-Link to NOW; 2) requires NOW to file tariffs as appropriate to continue service under the same rates, terms and conditions as were formerly provided by Tel-Link; 3) waives rule 4

CSR 240-33.150; and 4) directs the applicants to issue notification to all affected customers prior to the proposed transfer of accounts and also directs the parties or applicants to inform the customers of the right to select a different carrier. Staff stated in its memorandum that in order to facilitate the direct transfer of customer accounts to a different primary interexchange carrier, the parties have requested the waiver of the "anti-slamming" rule 4 CSR 240-33.150. Staff also stated that Tel-Link has discontinued accepting new Missouri customers pending transfer of customer accounts, but customer calls to either entity are being completed and serviced without disruption in the interim. Staff stated that after the completion of the proposed transaction, Tel-Link will continue to exist as a wholly owned but separate entity serving no Missouri customers.

On October 24, 2000, the Commission issued an order directing the joint applicants to file a responsive pleading to Staff's request for a waiver of rule 4 CSR 240-33.150. On November 6, 2000, the joint applicants filed their response with the Commission, amending their application to seek waiver of rule 4 CSR 240-33.150 and accepting Staff's recommendation that the Commission waive Commission rule 4 CSR 240-33.150 as it relates to the requested transfer of assets.

The Commission has reviewed the application, Staff's recommendation and the supplemental pleadings and finds that the transfer of assets is not detrimental to the public interest. The Commission will approve the transfer of assets requested with the conditions recommended in Staff's memorandum.

IT IS THEREFORE ORDERED:

1. That the transfer of assets from Tel-Link, L.L.C. to NOW Communications, Inc., requested by joint application filed on February 17, 2000, as supplemented on April 20, 2000, is hereby approved.

2. That NOW Communications, Inc. file proposed tariffs with the Missouri Public Service Commission consistent with the same rates, terms and conditions as were formerly provided by Tel-Link, L.L.C.

3. That rule 4 CSR 240-33.150 is hereby waived as it relates to the approved transfer of assets.

4. That NOW Communications, Inc. shall issue notification to all affected customers prior to the proposed transfer of accounts and shall inform each customer of the right to select a different primary interexchange carrier using the sample customer notice filed with the Commission on May 2, 2000.

5. That this order shall become effective on November 23, 2000.

6. That this case may be closed on November 24, 2000.

BY THE COMMISSION

(S E A L)



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Shelly A. Register, Regulatory Law
Judge, by delegation of authority
pursuant to Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 13th day of November, 2000.

FYI: To Be Issued By Delegation

ALJ/Sec'y: Register/Bayer

11-7

Date Circulated

7-13

Return by 3 p.m.

109m

MM-2000-501

CASE NO.

[Signature]
Lumpe, Chair

[Signature]
Drainer, Vice Chair

[Signature]
Murray, Commissioner

[Signature]
Schemenauer, Commissioner

[Signature]
Simmons, Commissioner

STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,

Missouri, this 13th day of Nov. 2000.



[Signature: Dale Hardy Roberts]

Dale Hardy Roberts

Secretary/Chief Regulatory Law Judge