

DT 00-026

**INTERNATIONAL EXCHANGE COMMUNICATIONS, INC.
D/B/A IE COM AND NOSVA LIMITED PARTNERSHIP**

**Transfer of Customer Accounts of NOSVA Limited Partnership
International Division to IE COM**

Order Approving an Asset Transfer Agreement

O R D E R N O . 23,536

July 21, 2000

On February 3, 2000, International Exchange Communications, Inc. (IECOM) and NOSVA Limited Partnership (NOSVA)(collectively, the Petitioners) filed with the New Hampshire Public Utilities Commission (Commission), a joint petition requesting approval of a proposed Asset Purchase Agreement (Agreement).

IECOM, a Delaware corporation, is a competitive intraLATA toll provider in New Hampshire, pursuant to Authorization No. IXC33899 (January 20, 1999). NOSVA, a Maryland corporation, received its authorization to provide competitive intraLATA toll services in New Hampshire pursuant to IXC04897 (January 19, 1995). The Agreement will effect a transfer from one New Hampshire utility to another, thereby triggering RSA 374:30.

RSA 374:30 requires a finding that the transfer of a utility's "franchise, works or system" is for the public good. IECOM submits that by acquiring NOSVA's customer base the

existing NOSVA customers will benefit by the availability of more service offerings and the ability of IECOM to appeal to and serve national accounts. In addition, NOSVA and IECOM point out in the customer notification that the transfer will result in no change in customers' rates and will not affect or disrupt current service.

We find that IECOM acquisition of the assets of NOSVA is in the public interest, a finding required under RSA 374:30 prior to the transfer of a public utility's franchise, works, or system. With regard to NOSVA, the system to be transferred consists, *inter alia*, of customer base, computerized billing systems, and collection rights. We first addressed the issue of customer base transfer in our Order No. 23,234 (June 14, 1999) in DT 99-077, Re RSL COM U.S.A., Inc. On page 4 of that order, we "noted that we cannot approve the transfer of a 'customer base'," given the statutory provisions of RSA 374:28-a. RSA 374:28-a prohibits changes of a customer's service provider without the customer's knowledge or consent, a practice known as slamming. Therefore, we will approve the transfer of a customer base only to the extent that the acquisition of each customer's long distance service is conditioned on notice to the customer of his/her opportunity to choose, without additional charge, another long

distance carrier within fourteen days of the date of the notice.

As we stated in RSL, "[I]t is imperative that customers have adequate advance notice that a carrier proposes to stop serving them, of their ability to choose another carrier, and of the identity of the carrier that will serve them if they do not make a choice by the end of the notice period." Id. p. 3. Here, Exhibit C of the filing recognizes part of RSA 374:28-a and informs customers of their opportunity to choose another carrier.

Based upon the foregoing, it is hereby

ORDERED, that the Asset Purchase Agreement between NOSVA Limited Partnership and International Exchange Communications, Inc. is hereby APPROVED as conditioned above; and it is

FURTHER ORDERED, that IECOM shall adopt the currently effective tariff of NOSVA; and it is

FURTHER ORDERED, that IECOM shall file a compliance tariff with the Commission within 30 days of this order, in accordance with N.H. Admin. Rules, Puc 1601.04(b).

By order of the Public Utilities Commission of New
Hampshire this twenty-first day of July, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary