

DT 01-003

**LDM SYSTEMS, INC. & RSL COM U.S.A., INC.**

**Request for Decertification of LDM Systems, Inc. as an  
Intrastate, Interexchange Carrier and for Assignment of its  
CLEC Authorization to RSL COM U.S.A., Inc.**

**O R D E R    N O.    23,712**

**May 24, 2001**

**I. BACKGROUND**

On January 3, 2001, RSL COM U.S.A., Inc. (RSL USA), the parent company of LDM Systems, Inc. (LDM), requested, on behalf of LDM, decertification of LDM as an intrastate Interexchange Carrier and assignment of LDM's Competitive Local Exchange Carrier authority to RSL USA.

RSL USA is a Delaware corporation, certified as a competitive toll provider in New Hampshire under IXC 29998 issued on June 25, 1998, and is the parent corporation of both LDM and RSL COM PrimeCall, Inc.<sup>1</sup>

LDM was authorized as a competitive toll provider (CTP) in New Hampshire on April 4, 1996, in Docket number DE 95-314 under IXC 09497. LDM was further certified as a New

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<sup>1</sup> On December 3, 1997, the shareholders of RSL USA and LDM entered into a Stock Purchase Agreement under which RSL USA acquired 100% of the issued and outstanding stock of LDM on a fully diluted basis from LDM shareholders. At that time, all LDM customers were informed that RSL USA was the parent company of LDM. Then, as now, LDM had no local exchange customers.

Hampshire CLEC on October 20, 1997 in Order No. 22,763. LDM has continued to provide resold interexchange services in New Hampshire using its own name and pursuant to the rates, terms and conditions of its tariff and operating authority.

## **II. POSITIONS OF THE PARTIES**

### **A. RSL USA**

RSL USA requests Commission decertification of LDM's Certificate of Public Convenience and Necessity as a toll provider and assignment of LDM's authority to provide Competitive Local Exchange services in New Hampshire. RSL USA is requesting the voluntary withdrawal of LDM's authority to provide resold intrastate IXC services because of an internal business decision to dissolve LDM as a separate subsidiary. As part of the process, RSL USA requests approval to transfer LDM's customer base and other telecommunications assets to RSL USA.

RSL USA has filed for a waiver from the Federal Communications Commission authorizing RSL USA to be designated as the preferred carrier for customers formerly presubscribed to LDM, without having first obtained each LDM customer's authorization and verification. Current LDM toll customers were informed by letter dated November, 1999, that LDM customers would be billed by RSL USA and that no changes,

other than the name of their long distance provider, were being made to their rates or services.

The petition also notes that LDM has no local exchange customers in New Hampshire. Finally, the petition asserts that the contemplated transaction is in the public interest as New Hampshire customers will have access to an active carrier of competitive services, the transaction will be transparent to LDM intrastate toll customers and the RSL USA continues to have the technical, managerial and financial resources to provide the public with quality telecommunications service throughout the state.

#### **B. STAFF**

Staff notes that RSL USA is requesting the assignment of a CLEC authority which has not been exercised in two years. Pursuant to N.H. Code of Admin. Rules Puc 1304.03(a), a CLEC must exercise its grant of certification within two years of the date of issuance or forfeit the authority to do so. LDM has not exercised its CLEC authority as it has no local exchange customers, has submitted no interconnection agreement and therefore has not operated in New Hampshire.

#### **III. COMMISSION ANALYSIS**

RSL USA's requests must be analyzed separately. We

take first the request to decertify LDM as a reseller of intrastate toll service. We may authorize a utility to discontinue service, under RSA 374:28, whenever it appears that the public good does not require the continuance of such service. Here, RSL USA will take over its subsidiary's services. RSL USA claims that for corporate reasons, related to cost, complexity and inefficiencies of operating separate subsidiaries offering similar telecommunications services, it made the decision to consolidate. This appears to be consistent with the public good as claimed by RSL USA, allowing former LDM subscribers to obtain service at rates and terms equal to or better than they currently receive.

The request for approval of the assignment of LDM's CLEC authority, however, will not be granted. RSA 374:30 provides that the utility may transfer its franchise, works or system when the Commission finds it is for the public good to do so. Since LDM has not exercised its grant of certification pursuant to our rules within two years of becoming a CLEC, it has forfeited its authority to do so, and therefore cannot transfer such authority to RSL USA. RSL USA may apply for CLEC status pursuant to N.H. Code of Admin. Rules Puc 1300, and may also seek expedited review of its request.

**Based upon the foregoing, it is hereby**

**ORDERED**, that LDM Systems, Inc.'s authority to provide Competitive Toll services under IXC number 09497 is terminated and LDM is no longer certified as a reseller of interexchange services in New Hampshire; and it is

**FURTHER ORDERED**, that RSL COM U.S.A., Inc. withdraw the LDM Systems, Inc. tariff and amend the RSL COM U.S.A., Inc. tariff by transferring the rate section of the LDM Systems, Inc. tariff to the RSL COM U.S.A., Inc. tariff; and it is

**FURTHER ORDERED**, that LDM has forfeited its grant of certification as a CLEC, and RSL USA's request for assignment of LDM's CLEC authority is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of May, 2001.

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Douglas L. Patch  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Thomas B. Getz  
Executive Director and Secretary

