

DT 99-103

ECLIPSE TELECOMMUNICATIONS, INC. AND TELECOM ONE, INC.

**Application of Eclipse Telecommunications, Inc. and Telecom One,
Inc. for Authority to Merge**

Order Approving the Plan of Merger

O R D E R N O. 23,317

October 11, 1999

On June 24, 1999, Eclipse Telecommunications, Inc. (Eclipse) and Telecom One, Inc. (Telecom One) jointly filed a "Letter of Notification" (LON) informing the New Hampshire Public Utilities Commission (Commission) of the intention to merge Telecom One with Eclipse. Eclipse received its authority to provide telecommunication services in New Hampshire on November, 28, 1998, and was previously authorized to operate under the name of Network Long Distance, Inc. Telecom One received its authorization from the Commission on January 29, 1997.

The LON states that "On May 25, 1999, Eclipse and Telecom One executed an Agreement and Plan of Merger pursuant to which Telecom One will be merged with Eclipse after requisite regulatory approvals have been obtained. At the closing of the proposed transaction, Telecom One will be merged with and into Eclipse and the company will continue as Eclipse Telecommunications, Inc." Telecom One proposes to incorporate tariffed prices, terms and conditions of service into Eclipse's tariff to service current Telecom One customers. The LON states that "...current customers will not be affected adversely by the

proposed merger."

Pursuant to 374:30, we find the proposed merger will be for the public good. However, RSA 374:28-a prohibits a change in a customer's telecommunications carrier or provider without the customer's knowledge or consent. Customers should have adequate advance notice that a carrier proposed to stop serving them and 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.

Based upon the foregoing, it is hereby

ORDERED, that the proposed merger of Telecom One, Inc. with and into Eclipse Telecommunications, Inc. is approved, subject to the completion of the following conditions:

(1) That Telecom One inform its customers in writing, in a manner meeting the approval of the Consumer Affairs Department of the Commission, of the fact that it has ceased operations in New Hampshire, that they have the opportunity to choose another long distance carrier, that they have until a date not less than fourteen days after the date of the notice to choose another long distance carrier, and that should its customers not choose another such carrier, Eclipse will be the default carrier; and that

(2) Before the notice period begins Eclipse shall file tariff pages encompassing the services provided by Telecom One, pursuant to which it will provide service to those former customers of Telecom One who choose the default carrier Eclipse as their intraLATA toll provider; and it is

FURTHER ORDERED, that Telcom One surrender its certification in New Hampshire by filing a supplement canceling their existing tariff.

By order of the Public Utilities Commission of New Hampshire this eleventh day of October, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary