

DT 99-153

ATLANTIC CONNECTIONS, LLC

**Petition to Sell Atlantic Connections, LLC to
Choice One of New Hampshire, Inc.**

Order Approving Sale with Conditions

O R D E R N O. 23,328

October 27, 1999

On October 12, 1999, Atlantic Connections, LLC (Atlantic) and Choice One of New Hampshire, Inc. (Choice One-NH) (collectively, the Petitioners) filed with the New Hampshire Public Utilities Commission (Commission), a joint petition requesting approval of a proposed sale of all the limited liability business interests of Atlantic to Choice One-NH.

Atlantic is a competitive toll provider (CTP) in New Hampshire, pursuant to Order 20,545. Choice One-NH is a CTP and a competitive local exchange carrier, pursuant to Orders Nos. 23,241 and 22,473. Choice One-NH is a subsidiary of Choice One Communications which is, in turn a subsidiary of Choice One Communications, LLC. Thus, a transfer from one New Hampshire utility to another is proposed, triggering RSA 374:30. RSA 374:30 requires a finding that the transfer is in the public interest. In New Hampshire, the public interest standard for a merger or acquisition is the test articulated in Grafton Electric Light and Power Co. v. State, 77 N.H. 539 (1915) and applied in Re CCI Telecommunications of New Hampshire, Inc., 81 NH PUC 844

(1996) and in Order No. 22,989 in DF 98-136, Atlantic Connections, Ltd. (July 24, 1998). Under that test, known as the no net harm test, a proposed transaction must be approved if the public interest is not adversely affected, in the circumstances presented here, if no adverse impact will befall New Hampshire ratepayers as a result of the transaction.

Here, the Petitioners state that Atlantic will continue to exist as a separate CTP, serving its customers under the same name; and that the transfer will result in no change in Atlantic's customers' rates, terms, or conditions of service. The Petitioners further state that Atlantic's personnel will not be replaced but will now benefit from Choice One-NH's extensive experience and management expertise, pointing out that Choice One-NH's parent company is an integrated communications provider offering broadband data and voice telecommunications services specifically tailored to the needs of small- and medium-sized businesses in the Northeast. We therefore find that Choice One-NH's acquisition of the Atlantic is in the common good and public interest.

We have ruled recently on several transfers of assets between registered CTPs in New Hampshire, analyzing the impact of the transfers in light of RSA 374:28-a. RSA 374:28-a prohibits slamming, the transfer of a customer's service from one service provider to another without the customer's knowledge or consent. We find that RSA 374:28-a does not apply here. Atlantic's customer base will not be transferred to Choice One-NH, which will continue to serve its own customers. Atlantic's customers will continue to be served by Atlantic. Hence, there is no change of service provider and no slamming possibility.

Based upon the foregoing, it is hereby

ORDERED, that the sale of Atlantic Connections, LLC to Choice One of New Hampshire, Inc. is hereby APPROVED.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of October, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary