

DT 00-096  
DT 00-108

**USN COMMUNICATIONS NORTHEAST, INC.**

**AND**

**CORECOMM NEW HAMPSHIRE, INC.**

**Petition to Acquire Assets of USN  
Communications, Inc. and Petition for  
Forbearance of Commission's Public Utility Assessment  
Supplemental Order Approving Forbearance of Customer  
Notification**

**O R D E R    N O.    23,625**

**January 22, 2001**

By Order No. 23,522 (July 5, 2000), the Commission approved with conditions the acquisition of USN Communication Northeast, Inc.(Northeast) and USN Communication Long Distance, Inc. (USNCLD) by CoreComm New Hampshire (CoreComm NH). One of those conditions was that Northeast and USNCLD must provide customer notification that granted customers 14 days to request a cost-free change of service provider. CoreComm NH now seeks forbearance from the customer notification and 14-day free carrier change opportunity requirements of Order No. 23,522.

In its petition filed on August 11, 2000, CoreComm NH avers its circumstances are similar to those of Sprint Communications Company, L.P. (Sprint) in DT 99-159. Like Sprint in DT 99-159, CoreComm Limited (CCL), CoreComm NH's ultimate parent, is acquiring customers of another carrier,

USN Communications, Inc. (USNC). USNC, the ultimate parent of Northeast and USNCLD, filed for Chapter 11 in the United States Bankruptcy Court for the District of Delaware. CCL also avers that like Sprint it filed with the Federal Communications Commission (FCC) for a limited waiver of the FCC's authorization and verification rules (47 CFR §§64.1100-64.1190) to enable it to transfer the USNC subscribers to CCL without first obtaining subscriber authorization and verification.

The FCC, in its order in DA 99-893, granted the CCL request, noting CCL had demonstrated special circumstances that warranted a deviation from the general rule requiring customer notification prior to the asset transfer. The FCC determined that without the waiver, USNC's customers were at risk of losing their long distance service or of being charged substantially higher rates than those they received from USNC. The FCC recognized CCL and USNC had demonstrated that the companies would implement a multiple-step customer notification plan to advise USNC customers that CCL would provide service to them, and the companies would establish a 24-hour "800" number to answer customer questions. The FCC concluded that the rights of USNC's customers would be

adequately protected, and the waiver was therefore in the public interest.

In further support of its petition, CoreComm NH alleges that the May 26, 1999 acquisition of the USNC customer base predates Order No. 23,234 (RSL COM U.S.A., Inc., Docket DT 99-077, June 14, 1999), a case of first impression in which the Commission for the first time interpreted the public good requirement of RSA 374:30 and the anti-slamming provisions of RSA 374:28-a as requiring notice<sup>1</sup> to customers prior to effectuating a transfer of one carrier's customers to another carrier. Therefore, USNC and CCL did not at the time of their transaction have notice of the Commission's policy to require customer notification with a 14-day opportunity to choose another carrier at any cost.

The filing indicates that the Petitioner complied with all other necessary steps known at the time of the transaction for informing customers of changes to their carrier. Given the special circumstances present in this

---

<sup>1</sup>This notice included information as to the carrier's intent to lease its operations, that its customers have the opportunity to choose another carrier within 14 days of the notice and that if no such selection is made, then the customers will be assigned to the carrier that has petitioned to acquire such customers.

case, we will approve the request for forbearance. We also note that the multiple-step customer notification plan and toll-free number to answer customers' questions noted in the FCC's order will provide additional protection of customers' rights.

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

**ORDERED,** that CoreComm New Hampshire, Inc.'s request for forbearance from customer notification and 14-day free carrier change opportunity requirements of Order No. 23,234 is hereby APPROVED.

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

---

Douglas L. Patch  
Chairman

---

Susan S. Geiger  
Commissioner

---

Nancy Brockway  
Commissioner

Attested by:

---

Thomas B. Getz  
Executive Director and Secretary