

DT 01-069

NOS COMMUNICATIONS, INC.

**Petition for Authority to Provide
Local Telecommunications Services**

Order Nisi Granting Authorization

O R D E R N O. 23,867

December 7, 2001

On April 2, 2001, NOS Communications, Inc. (NOS) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to the policy goals set by the New Hampshire Legislature in RSA 374:22-g, effective July 23, 1995.

NOS is certified as a toll provider in the state of New Hampshire, having been issued IXC No. 00697 on August 19, 1997. This Commission on October 8, 2001, approved an interconnection agreement between NOS and Verizon. The Commission has received no complaints against NOS or its two affiliated companies.

Pursuant to Puc Chapter 1300, an applicant's petition for certification as a Competitive Local Exchange Carrier (CLEC) shall be granted when the Commission finds that (1) all information listed in Puc 1304.02 has been provided to the Commission; (2) the applicant meets standards for financial resources, managerial qualifications, and technical competence; and, (3) certification for the particular geographic area

requested is in the public good.

The Commission Staff (Staff) has reviewed NOS's petition for compliance with these standards. Staff reports that the company has provided all the information required by Puc 1304.02 and that the information provided supports NOS's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b), (e), (f), and (g). Staff further reports that adding NOS to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

NOS requests a waiver of the surety bond requirement in Puc 1304.02(b). In support, NOS submitted a sworn statement that it does not require advance payments or deposits of their customers. Staff recommends granting the waiver.

NOS will be serving customers only within Verizon territory and has requested a waiver from the requirement that maps of the intended service area be provided. Staff recommends granting the waiver to Puc 1304.02(a)(6), the relevant rule.

We find that NOS has satisfied the requirements of Puc 1304.01(a)(1) and (2) and, further, that authorization is in the public good, thus meeting the requirement of Puc 1304.01(a)(3). In making this finding, as directed by RSA 374:22-g we have considered the interests of competition, fairness, economic

efficiency, universal service, carrier of last resort, the incumbent's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. This finding is further supported by the Telecommunications Act of 1996 (TAct). Because NOS has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

As part of its petition, NOS avers it will charge access rates no higher than by Verizon New Hampshire's present and future rates for intraLATA switched access. At any point NOS seeks to exceed Verizon New Hampshire's access rates it will first seek Commission review. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop, in order to avoid any inhibition of intraLATA toll competition in contravention of the Telecommunications Act of 1996.

We note that as new competitors enter the market, greater pressure is put on the 603 area code, so long as today's number assignment process remains in effect. Accordingly, we will require that NOS request and use numbers responsibly and conservatively, and to join in exploring alternative mechanisms to use existing numbers as efficiently as possible. As evidenced by our recent orders, we have serious concern for the maintenance and viability of the 603 area code and the North American Numbering Plan as a whole. In approving this petition, we require NOS to comply with our orders on number resource

optimization, including but not limited to Order No. 23,385 issued January 7, 2000, and Order No. 23,392 issued January 27, 2000.

Based upon the foregoing, it is hereby

ORDERED NISI, that NOS's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Verizon New Hampshire, is GRANTED, subject to all relevant Commission rules and orders; and it is

FURTHER ORDERED, that NOS's request for waiver of the surety bond requirement per Puc 1304.02(b) is hereby GRANTED subject to NOS's agreement not to collect any deposit, prepayment or advance payment prior to the provision of service; and it is

FURTHER ORDERED, that NOS's request for waiver of the requirement for a U.S.G.S. map showing planned service territory contained in Puc 1304.02(a)(6) is GRANTED;

FURTHER ORDERED, that no less than ten days prior to commencing service, the Petitioner shall file with the Commission a rate schedule including the name description and price of each service, in accordance with N.H. Admin. Rules, Puc 1304.03(b); and it is

FURTHER ORDERED, that NOS shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than

December 17, 2001 and to be documented by affidavit filed with this office on or before December 31, 2001; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi shall submit their comments or file a written request for a hearing on this matter before the Commission no later than December 24, 2001; and it is

FURTHER ORDERED, that this Order Nisi shall be effective January 7, 2002, unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that, should the petitioner fail to exercise the authority granted herein within two years of the date of this order, the authority granted shall be deemed withdrawn, null, and void.

By order of the Public Utilities Commission of New
Hampshire this seventh day of December, 2001.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary