

SERVICE NOTICE

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CASE NUMBER 99-557-TP-NAG
CASE DESCRIPTION AMERITECH OHIO/NOW COMMUNICATIONS
DOCUMENT SIGNED ON September 9, 1999
DATE OF SERVICE 9-10-99

PERSONS SERVED

PARTIES OF RECORD

ATTORNEYS

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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application for)
Approval of an Interconnection Agree-)
ment Between Ameritech Ohio and NOW) Case No. 99-557-TP-NAG
Communications Pursuant to Section 252)
of the Telecommunications Act of 1996.)

ENTRY ON REHEARING

The Commission finds:

- (1) On August 5, 1999, the Commission issued a finding and order in this matter rejecting the interconnection agreement between Ameritech Ohio and NOW Communications (NOW), finding that we were unable to conclude, at that time, that the implementation of the agreement is consistent with the public interest. We noted that the service being proposed by NOW is being challenged on public interest grounds in NOW's certification proceeding. However, the Commission left this case open to review this conclusion upon completion of NOW's certification case.
- (2) Section 4903.10, Revised Code, states that any party who has made an appearance in a Commission proceeding may file an application for rehearing within 30 days of the journalization of a Commission decision.
- (3) On August 31, 1999, NOW filed an application for rehearing of the Commission's August 5, 1999 finding and order.
- (4) NOW's first assignment of error asserts that the Commission failed to act within the time frame set forth in Section 252(e)(5) of the Federal Telecommunications Act of 1996 (1996 Act). NOW's second assignment of error is that the Commission improperly determined that the agreement was not in the public interest because its certification case was not completed and that the Commission has previously stated that the fact that the carrier has not become certified by the Commission is no basis for finding that implementation of the agreement is not consistent with the public interest.
- (5) After considering NOW's arguments on rehearing, in conjunction with the criteria set forth in Section 252(e) of the 1996 Act, the Commission finds that rehearing should be

granted and that the interconnection agreement submitted in this case should have been approved in accordance with Section 252(e) of the 1996 Act. We agree with NOW that the public interest standard associated with the interconnection agreement under Section 252(e) of the 1996 Act is completely separate from the public interest standard NOW must satisfy in order to obtain a certificate of public convenience and necessity to operate as a competitive local exchange service provider under Section 4905.24, Revised Code. A review of the terms and conditions set forth in the NOW/Ameritech agreement reveals terms and conditions similar to other Ameritech interconnection agreements that have been approved in the past by the Commission. Further, there is nothing on the face of this interconnection agreement which speaks to the actual service to be offered to Ohio customers by NOW under the interconnection agreement. Thus, we can find no basis to conclude, from a review solely of the terms and conditions of the NOW/Ameritech interconnection agreement, that implementation of the agreement is not in the public interest. That being the case, we find that the agreement should have been approved.

The Commission wishes to make it very clear, however, that our approval of this or any other interconnection agreement does not mean that the service which NOW proposes to offer in Ohio also meets the public interest standard for certification to operate in Ohio. As we stated above, that is a totally separate determination for NOW's certification proceeding (*In the Matter of the Application of NOW Communications, Inc., for Authority to Resell Local Exchange and Intrastate Interexchange Telecommunications Services on a Prepaid Basis in the State of Ohio*, Case No. 98-1466-TP-ACE) which is currently scheduled for hearing, and has been challenged by numerous intervenors on public interest grounds. We will make our decision as to whether NOW should actually be granted a certificate to operate, only after considering the evidence of record presented in that case.

In the meantime, we stress that NOW is not authorized to provide local exchange service in Ohio and may not do so until and unless its application for a certificate of public convenience and necessity from this Commission authorizing it to conduct operations as a public utility and a provider

of prepaid local exchange service is granted by the Commission.

It is, therefore,

ORDERED, That NOW's application for rehearing is granted as set forth herein. It is, further,

ORDERED, That a copy of this entry on rehearing be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Ronda Hartman Fergus

Judith A. Jones

Craig A. Glazer

Donald L. Mason

SEF;jkg

Entered in the Journal
SEP 9 1999

A True Copy

Gary E. Vigorito
Secretary