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CATHLEEN A. MARTIN  
STEPHEN G. NEWMAN  
JOHN A. RUTH  
D. GREGORY STONEBARGER

February 24, 2000

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

TM-2000-524  
**FILED**<sup>2</sup>

FEB 24 2000

Missouri Public  
Service Commission

Re: NEXTLINK Missouri, Inc.  
NEXTLINK Long Distance Services, Inc.

Dear Judge Roberts:

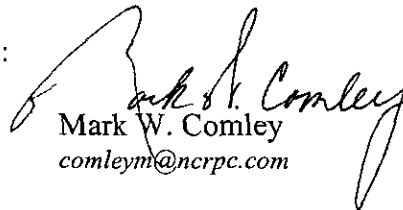
Enclosed for filing please find the original and fourteen copies of a Joint Application and Petition.

Please contact me if there are any questions concerning this filing. Thank you very much.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley  
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel  
Carol Pomponio

Before the  
PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>  
FEB 24 2000

Missouri Public  
Service Commission

In the Matter of )  
 )  
the Joint Application of NEXTLINK Missouri, Inc )  
and NEXTLINK Long Distance Services, Inc. )  
for Approval of the Pro Forma Transfers of )  
Control of NEXTLINK Missouri, Inc. and )  
NEXTLINK Long Distance Services, Inc. from )  
NEXTLINK Communications, Inc. to )  
NM Acquisition Corp. )

Case No. TM-2000-524

JOINT APPLICATION AND PETITION

NEXTLINK Missouri, Inc. ("NEXTLINK MO") and NEXTLINK Long Distance Services, Inc. ("NEXTLINK LD") (collectively "Applicants") and pursuant to Section 392.300 RSMo. 1994 hereby apply to and petition the Missouri Public Service Commission (the "Commission") for approval of pro forma transfers of control of NEXTLINK MO and NEXTLINK LD from NEXTLINK Communications, Inc. to NM Acquisition Corp.

Applicants respectfully submit the following in support of this Joint Petition:

1. NEXTLINK MO is a Washington corporation duly organized and existing under the laws of Washington and qualified to transact business in the State of Missouri. NEXTLINK MO operates in Missouri as a facilities-based common carrier and reseller of local and long-distance service pursuant to its January 22, 1999 and January 29, 1999 Certificates of Service Authority, which were issued by the Commission in Case Nos. TA-99-220 and TA-99-48, respectively. A copy of NEXTLINK MO'S certificate of good standing issued by the Secretary of State for the state of Missouri is attached as Exhibit 1. NEXTLINK MO is a nondominant provider in Missouri. Its address and telephone number are:

NEXTLINK Missouri, Inc.  
2020 Westport Center Drive  
Maryland Heights, MO 63146  
314-787-7000

2. NEXTLINK LD is a Washington corporation duly organized and existing under the laws of Washington and qualified to transact business in the State of Missouri. NEXTLINK LD operates in Missouri as a facilities based and reseller of long-distance service pursuant to its December 17, 1999 Certificate of Service Authority issued by the Commission in Case No. TA-2000-253. NEXTLINK LD's certificate of good standing issued by the Missouri Secretary of State is attached as Exhibit 2. NEXTLINK LD is also a nondominant provider in Missouri. Its address and telephone number are:

NEXTLINK Long Distance Services, Inc.  
500 108<sup>th</sup> Avenue NE  
Suite 2200  
Bellevue, WA 98004  
425-519-8900

3. NEXTLINK Communications, Inc. is a Delaware corporation. Its address is:

NEXTLINK Communications, Inc.  
1505 Farm Credit Drive  
6<sup>th</sup> Floor  
McLean, VA 22102

4. NM Acquisition Corporation is a newly-formed Delaware corporation. Its address and telephone number are:

NM Acquisition Corporation  
1505 Farm Credit Drive  
6<sup>th</sup> Floor  
McLean, VA 22102  
(703) 547-2000

5. All inquiries, correspondence, communications, pleadings, notices, order and

decisions relating to this Application should be addressed to:

**Carol Pomponio**  
NEXTLINK Missouri, Inc.  
2020 Westport Center Drive  
Maryland Heights, MO 63146  
314-812-4952  
314-567-1509 (FAX)  
cpomponio@nextlink.com

**Mark W. Comley**  
Newman, Comley & Ruth P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, MO 65102-0537  
573-634-2266  
573-636-3306 (FAX)  
comleym@ncrpc.com

6. NEXTLINK MO and NEXTLINK LD are currently 100 percent owned by NEXTLINK Communications, Inc. which in turn is controlled by Eagle River Investments, L.L.C., a Washington limited liability company. Eagle River Investments, L.L.C. holds 28 percent of the stock of NEXTLINK Communications, Inc. and 57 percent of the voting power of NEXTLINK Communications, Inc.

7. On January 9, 2000, NEXTLINK Communications, Inc., NM Acquisition Corp., and Eagle River Investments, L.L.C. entered into an Agreement and Plan of Merger and Share Exchange Agreement (the "Agreements")<sup>1</sup> with Concentric Network Corporation ("Concentric"), an Internet service provider incorporated in Delaware. Pursuant to the Agreements, NEXTLINK Communications, Inc. and Concentric will each merge into a newly created Delaware corporation, NM Acquisition Corp (these transactions are collectively referred to hereafter as the "Mergers"). By virtue of the Mergers, NEXTLINK Communications, Inc. and Concentric will each cease to exist and NM Acquisition Corp. will be the sole surviving corporation. Ownership and control of

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<sup>1</sup> The Agreement and Plan of Merger and Share Exchange Agreement can be found in Form 8-K filed by NEXTLINK Communications, Inc. with the Securities and Exchange Commission on January 9, 2000. Due to their volume, copies of the Agreements will not be attached but will be promptly provided to the Commission upon request.

NEXTLINK MO and NEXTLINK LD will pass to NM Acquisition Corp., but these transfers of control and ownership will be purely pro forma in nature because Eagle River Investments, L.L.C. will control NM Acquisition Corp after the Mergers. Following the Mergers, Eagle River Investments, L.L.C. will hold approximately 23% of the stock of NM Acquisition Corp. and between 54 percent and 56 percent of the voting power of NM Acquisition Corp., while Concentric shareholders will own between 15.8 percent and 19.4 percent of the common stock of NM Acquisition Corp., representing between 4.7 percent and 5.9 percent of its voting power. After the Mergers, NM Acquisition Corp. will change its name to NEXTLINK Communications, Inc.<sup>2</sup>

8. In the event that NEXTLINK Communications, Inc. and Concentric are unable to obtain the consent of holders of certain securities of Concentric to either the Merger or Alternative Merger,<sup>3</sup> then NM Acquisition Corp. may elect, within a certain specified time period, to commence the "Exchange Offer." In the Exchange Offer, NM Acquisition Corp. would seek to acquire all of the issued and outstanding shares of Concentric common and Series C preferred stock in exchange for preferred stock and a certain number of shares of common stock of NM Acquisition Corp. Also pursuant to the terms of the Exchange Offer, NM Acquisition Corp. would create a wholly owned subsidiary and NEXTLINK Communications, Inc. would be merged with and into such subsidiary.

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<sup>2</sup> In the alternative, if NEXTLINK Communications, Inc. and Concentric do not receive a no-action letter or similar assurance from the Securities and Exchange Commission to the effect that NM Acquisition Corp. will be treated as a successor issuer to NEXTLINK Communications, Inc. and Concentric for purposes of certain securities filings and other applicable provisions of U.S. securities laws, the mergers will be restructured as the "Alternative Merger." By virtue of the Alternative Merger, Concentric would be merged into NEXTLINK Communications, Inc., which would be the surviving corporation. As a result of this merger, Concentric shareholders would own between 15.8 percent and 19.4 percent of the common stock of NEXTLINK Communications, Inc., representing between 4.7 percent and 5.9 percent of its voting power. NEXTLINK MO and NEXTLINK LD respectfully request that the Commission also grant approval of the Alternative Merger for the reasons stated in this Joint Application.

<sup>3</sup> Specifically, holders of Concentric's Series B Preferred Stock, Concentric's 13-1/2% Subordinated Debentures (which are issued in exchange for Concentric's Series B Preferred Stock at Concentric election) and Concentric's 12-3/4% Senior Notes.

NEXTLINK Communications, Inc. would be the surviving corporation in such merger, in effect becoming a wholly-owned subsidiary of NM Acquisition Corp. Each issued and outstanding share of NEXTLINK Communications, Inc.'s common stock and Class B common stock would be converted into one share of NM Acquisition Corp.'s common stock and Class B common stock, respectively. In the event that the requisite consents to the Mergers are obtained following commencement of the Exchange Offer, NM Acquisition Corp., NEXTLINK Communications, Inc. and Concentric would then cause the Mergers to occur after termination of the Exchange Offer. Following the Exchange Offer or the Mergers, as the case may be, Eagle River Investments, L.L.C. would hold approximately 23% of the stock of NM Acquisition Corp. and between 54 percent and 56 percent of the voting power of NM Acquisition Corp., while Concentric shareholders would own between 15.8 percent and 19.4 percent of the common stock of NM Acquisition Corp., representing between 4.7 percent and 5.9 percent of its voting power. Once again, the transfers of control and ownership of NEXTLINK MO and NEXTLINK LD from NEXTLINK Communications, Inc. to NM Acquisition Corp. would be purely pro forma in nature because Eagle River Investments, L.L.C. would control NM Acquisition Corp. after the Exchange Offer or the Mergers. In addition, as described in the preceding paragraph, NM Acquisition Corp. would change its name to NEXTLINK Communications, Inc.<sup>4</sup>

9. Once the transactions contemplated by the Agreements have been consummated,

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<sup>4</sup> If the Mergers do not take place after termination of the Exchange Offer, then NEXTLINK MO and NEXTLINK LD would still be owned by NEXTLINK Communications, Inc. which would be owned by NM Acquisition Corp. Eagle River Investments, L.L.C. would control NM Acquisition Corp. through its holding of approximately 23% of the stock of NM Acquisition Corp. and between 54 percent and 56 percent of the voting power of NM Acquisition Corp. Certain former Concentric shareholders would now be shareholders of NM Acquisition Corp., but cumulatively these Concentric shareholders would hold less than between 15.8 percent and 19.4 percent of the common stock of NM Acquisition Corp., representing less than between 4.7 percent and 5.9 percent of its voting power.

NEXTLINK MO and NEXTLINK LD will be owned and controlled by NEXTLINK Communications, Inc., which will continue to be controlled by Eagle River Investments, L.L.C. NEXTLINK MO and NEXTLINK LD will continue to provide services in Missouri under the same names, tariffs, and operating authorizations. The proposed pro forma transfers will not affect the ability of NEXTLINK MO or NEXTLINK LD to continue to serve the public interest by: (a) promoting competition among telecommunications service providers in the State of Missouri; and (b) ensuring the highest quality of service to Missouri consumers. The contemplated mergers will broaden the service offerings of NEXTLINK MO and NEXTLINK LD and improve their services to both existing and new customers. In addition, the same public interest findings that led the Commission initially to grant NEXTLINK MO's and NEXTLINK LD's Certificates of Service Authority support grant of the instant Petition.

10. Consummation of the Agreements is expected to have no impact on the tax revenues of the political subdivisions within which the structures, facilities, and equipment of Applicants are located.<sup>5</sup>

11. Neither NEXTLINK Communications, Inc., NM Acquisition Corp. nor Eagle River Investments have either pending or final decisions or judgments against them from any state or federal agency involving service to customers or rates charged.

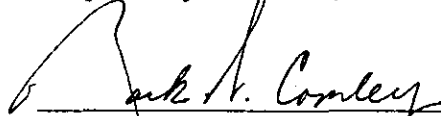
WHEREFORE, for the foregoing reasons, NEXTLINK MO and NEXTLINK LD respectfully request that the Commission act expeditiously to approve the proposed pro forma transfers of control applied for herein.

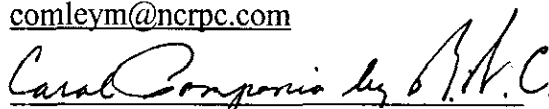
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<sup>5</sup> Within the state of Missouri, structures, facilities, and/or equipment of the Applicants are located in the City of St. Louis, Richmond Heights, University City, Clayton, Ladue, Olivette, Creve Coeur, Town and Country, Maryland Heights, and the County of St. Louis.

Respectfully submitted,

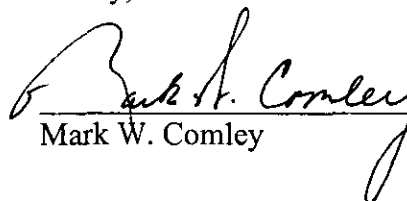
By:

  
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[comleym@ncrpc.com](mailto:comleym@ncrpc.com)

  
Carol Pomponio CABar# 160453  
NEXTLINK Missouri, Inc.  
2020 Westport Center Drive  
Maryland Heights, MO 63146  
314-812-4952  
314-567-1509  
[cpomponio@nextlink.com](mailto:cpomponio@nextlink.com)  
Attorneys for NEXTLINK MISSOURI, INC. and NEXTLINK  
LONG DISTANCE SERVICES, INC.

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand delivered, to Office of Public Counsel, P.O. Box 7800, Jefferson City, MO 65102, on this 24<sup>th</sup> day of February, 2000.

  
Mark W. Comley



VERIFICATION

STATE OF ~~MISSOURI~~ District of )  
COUNTY OF Columbia ) ss:

R. Gerard Salemmme, being duly sworn, states that:

1. I am Senior Vice President External Affairs and Industry Relations of NEXTLINK Missouri, Inc. and NEXTLINK Long Distance Services, Inc., and, as such, I am familiar with the transactions involved in the proposed pro forma transfers of ownership and control of these companies from NEXTLINK Communications, inc. to NM Acquisition Corp.

2. I have read the foregoing Joint Petition of NEXTLINK Long Distance Services, Inc. and NEXTLINK Missouri, Inc., and the statements and information contained therein are true and correct to the best of my knowledge and belief.



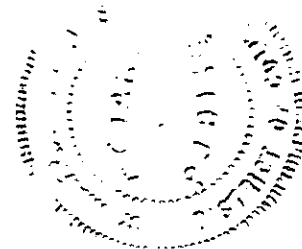
R. Gerard Salemmme  
Senior Vice President  
External Affairs and Industry  
Relations  
NEXTLINK Long Distance  
Services, Inc. and  
NEXTLINK Missouri, Inc.

Sworn to before me  
this 10<sup>th</sup> day of February, 2000.



Notary Public Maria J. Davis  
Washington, DC

My Commission expires: Oct. 31, 2002



No. F00457301

# STATE OF MISSOURI



**Rebecca McDowell Cook**  
**Secretary of State**

## CORPORATION DIVISION

### CERTIFICATE OF CORPORATE GOOD STANDING - FOREIGN CORPORATION

I, REBECCA McDOWELL COOK, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

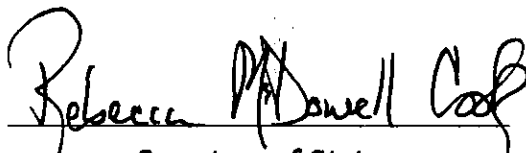
NEXTLINK MISSOURI, INC.

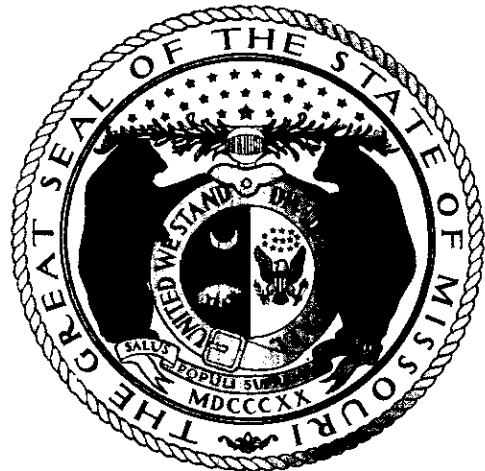
using in Missouri the name

NEXTLINK MISSOURI, INC.

a WASHINGTON corporation filed its Evidence of Incorporation with this State on the 23rd day of JUNE, 1998, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 24th day of FEBRUARY, 2000.

  
Secretary of State



No. F00470824

# STATE OF MISSOURI



**Rebecca McDowell Cook**  
**Secretary of State**

## CORPORATION DIVISION

### CERTIFICATE OF CORPORATE GOOD STANDING - FOREIGN CORPORATION

I, REBECCA McDOWELL COOK, Secretary of State of the State of Missouri, do hereby certify that the records in my office and in my care and custody reveal that

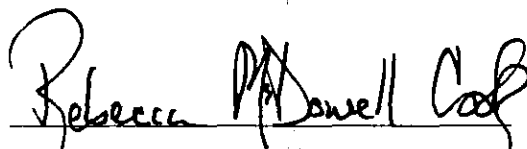
NEXTLINK LONG DISTANCE SERVICES, INC.

using in Missouri the name

NEXTLINK LONG DISTANCE SERVICES, INC.

a WASHINGTON corporation filed its Evidence of Incorporation with this State on the 16th day of JUNE, 1999, and is in good standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I have set my hand and imprinted the GREAT SEAL of the State of Missouri, on this, the 24th day of FEBRUARY, 2000.

  
Secretary of State

