

owned subsidiary of SmarTalk. SMTK does not hold any certificate of service authority from the Commission.

ConQuest LD is an Ohio corporation with corporate offices in Dublin, Ohio. On April 23 and November 4, 1993, in Case Nos. TA-93-148 and TT-94-136, respectively, the Commission granted ConQuest LD authority to provide interexchange and alternative operator services. According to the joint application, ConQuest currently offers prepaid 1+, 0+ and debit card services. ConQuest LD is a wholly owned subsidiary of ConQuest, which is a Delaware corporation with corporate offices in Dublin, Ohio.

The proposed transaction involves the merger of SMTK with and into ConQuest, with ConQuest as the surviving corporation. The proposed transaction would result in ConQuest becoming a subsidiary of SmarTalk, and SMTK would cease to exist upon completion of the merger. ConQuest LD and SmarTalk attached to their joint application a copy of the "Agreement and Plan of Merger" (Agreement) that would implement this transaction. SmarTalk would acquire all the issued and outstanding capital stock of ConQuest. In return, ConQuest's shareholders would receive their 7.63 shares of SmarTalk's common stock for each share of ConQuest common stock. The applicants stated that the proposed acquisition would appear seamless to SmarTalk and ConQuest customers and would not affect the provision of services, and that SmarTalk plans to continue ConQuest's operations in a substantially similar manner as prior to the Agreement. The applicants requested Commission approval of the proposed transactions and also requested that the Commission treat the

Agreement attached to their application as "confidential," alleging that the Agreement is proprietary and sensitive, and that its disclosure to the public would place SmarTalk and ConQuest at a competitive disadvantage. However, the applicants did not request that the Commission issue a protective order.

Under the Agreement, the certificate currently held by ConQuest LD would remain in its name, and SmarTalk would also retain its certificate. SmarTalk would continue to offer 0+ services through ConQuest LD under ConQuest LD's certification and tariff. SmarTalk would amend its tariff to incorporate services similar to ConQuest LD's 1+ and prepaid services, and debit cards already issued by ConQuest LD would expire over a period of 18 months. The name ConQuest would be used only in connection with 0+ services and on the debit cards currently in circulation. According to SmarTalk and ConQuest LD, the merger is in the public interest because it would combine the complementary managerial, technical, marketing and financial capabilities of the applicants and strengthen SmarTalk's ability to offer a full range of competitively priced services to the public.

The applicants did not include a statement of whether they have any pending or final decisions or judgments against them from any state or federal agency involving service to their customers or rates charged, as required by 4 CSR 240-2.060(6)(H).

On November 3, the Staff of the Commission (Staff) filed its memorandum recommending approval of the proposed merger of SMTK into ConQuest and resultant acquisition of ConQuest by SmarTalk. Staff stated

its opinion that the public interest would be served by the merger and acquisition because the companies would combine their managerial, technical, marketing and financial capabilities and strengthen SmarTalk's ability to offer telecommunications services to the public. Staff was not aware of any other filings which would affect or be affected by the proposed transaction.

On October 2, 1998, the Commission issued a Notice of Filing Requirements in which it informed the applicants that, in order for the Commission to treat the portions of the Application claimed to be sensitive as highly confidential or proprietary, they must request a protective order pursuant to 4 CSR 240.080(13). The Commission also notified the applicants that it would not be able to act on the application until the applicants provided a statement about any pending or final decisions or judgments as required by 4 CSR 240.060(6)(H).

On October 26, the applicants filed a Supplement to Joint Application in which they state that there are no final decisions or judgments against them from any state or federal agency involving service to customers or rates charged. The applicants did not request a protective order.

Upon review of the supplemented verified application and Staff's recommendation, the Commission finds that the proposed merger between SmarTalk's subsidiary (SMTK) and ConQuest, and the resulting acquisition by SmarTalk of ConQuest and its subsidiaries (including ConQuest LD) should be approved. The Commission also finds that the proposed merger will not directly affect the operations of the companies,

because the companies are expected to continue to hold their own certificates of service authority and continue to provide service to Missouri customers under their existing names and tariffs. The Commission further finds that the proposed merger will serve the public interest by permitting the affected companies to combine their managerial, technical, marketing and financial resources.

IT IS THEREFORE ORDERED:

1. That the merger of SMTK Acquisition Corp. II with ConQuest Telecommunication Services Corp. as the surviving corporation, is approved.

2. That the acquisition of ConQuest Telecommunication Services Corp. and its subsidiaries, including ConQuest Long Distance Corp., by SmarTalk TeleServices, Inc. is approved.

3. That SMTK Acquisition Corp. II, ConQuest Telecommunication Services Corp., ConQuest Long Distance Corp. and SmarTalk TeleServices, Inc. are authorized to enter into, execute, and perform in accordance with all necessary documents, and take all other actions, necessary to effectuate the merger and acquisition transaction contemplated by the document entitled "Agreement and Plan of Merger" that was attached as Exhibit A to the application filed by SmarTalk TeleServices, Inc. and ConQuest Long Distance Corp. on October 14, 1997.

4. That SmarTalk TeleServices, Inc. and ConQuest Long Distance Corp. are directed to file a pleading with the Missouri Public Service Commission notifying the Commission of the completion of this

transaction by the later of 30 days after completion of the transactions authorized by this order, or by January 14, 1999.

5. That this order shall become effective on December 29, 1998.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Murray,
and Drainer, CC., concur.
Schemenauer, C., absent.

Mills, Deputy Chief Regulatory Law Judge

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COMMISSION COUNSEL
PUBLIC SERVICE COMMISSION