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MAY 1 4 2004

Missouri Public
Service Commission

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Records
Public Service Commission

NOW Communications, Inc.
1375 S. Semoran Blvd.
Bldg. 5 Ste. 1348
Winter Park, FL 32792

(Full Company Name)

INTEREXCHANGE TELECOMMUNICATIONS CARRIER

ANNUAL REPORT

TO THE

MISSOURI PUBLIC SERVICE COMMISSION

For Period Ending December 31, 2003

IXC Annual Report of NOW Communications, Inc.

for the year ended December 31, 2003

1. State in full the exact **'certificated'** name of the Interexchange Telecommunications Carrier: (Do not abbreviate; yet include any Commission approved fictitious name, if applicable.)

   NOW Communications, Inc.

2. Effective date of certification by the MO Public Service Commission and associated case number:

   Date (e.g. 00/00/0000): 6/20/98 Case No: TA-98-502

3. Was the company certificated in Missouri under any other name(s)? If yes, please provide all names and time periods involved since the original certification:

   No.

4. State the name, title, street address, telephone number, fax number, and e-mail address* of the i[...]l Report:

   NOW Communications, Inc.
   Attn: Mr. Larry W. Seab
   1375 S. Semoran Blvd.
   Bldg. 5 Ste. 1348
   Winter Park, FL 32792

   ph: 407 681 5230
   fax: 407 671 8785
   LWS@nowcommunications.com

   (*) To facilitate electronic sending of the Annual Report form next year.

5. State the name, title, street address, telephone number, fax number, and e-mail address of the company's regulatory contact person(s):

   Same as above.

6. Please provide a listing of all mergers, consolidations, and reorganizations, completed during the last year.

   See attached bankruptcy court order.

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for the year ended December 31, 2003

7. Please Provide the following information concerning Total Company and gross intrastate operating revenues (i.e., Missouri Specific) Revenues for the Calendar Year 2003

Revenues:	Total Company	MO Specific
Operating Revenues* from Telecommunication Services	10,292,980	49,883
MO Specific should match Statement of Revenue (FY-2005 Mo.PSC Assessment)		

8. Type of Missouri tax return filed (i.e. MO-1065, MO-1120A, MO-1120S, MO-NRP, MO-NRS etc.): MO. 1120A

9. Missouri Taxpayer ID: 17641357

* Missouri Revised Statutes §386.020(53)

(53) "Telecommunications service", the transmission of information by wire, radio, optical cable, electronic impulses, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. Telecommunications service does not include:

(a) The rent, sale, lease, or exchange for other value received of customer premises equipment except for customer premises equipment owned by a telephone company certificated or otherwise authorized to provide telephone service prior to September 28, 1987, and provided under tariff or in inventory on January 1, 1983, which must be detariffed no later than December 31, 1987, and thereafter the provision of which shall not be a telecommunications service, and except for customer premises equipment owned or provided by a telecommunications company and used for answering 911 or emergency calls;

(b) Answering services and paging services;

(c) The offering of radio communication services and facilities when such services and facilities are provided under a license granted by the Federal Communications Commission under the commercial mobile radio services rules and regulations;

(d) Services provided by a hospital, hotel, motel, or other similar business whose principal service is the provision of temporary lodging through the owning or operating of message switching or billing equipment solely for the purpose of providing at a charge telecommunications services to its temporary patients or guests;

(e) Services provided by a private telecommunications system;

(f) Cable television service;

(g) The installation and maintenance of inside wire within a customer's premises;

(h) Electronic publishing services; or

(i) Services provided pursuant to a broadcast radio or television license issued by the Federal Communications Commission;

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for the year ended December 31, 2003

10. In an effort to update our Electronic Filing & Information system (EFIS) with current company contact and address information please provide the following information. Either verify the information through EFIS and initial in space provided or complete each sub-type and the Data Center Staff will update as required.

a. Official Representative of the Company: *Information contained in EFIS is current:* ______ initals

Name: SAME AS PARA. 4 ABOVE -
Street/ PO Box:
City, State, Zip:
Telephone number:
Fax number:
E-mail address:

b. Consumer Services: *Information contained in EFIS is current:* ______ initals

Name: LYNN JENNINGS
Street/ PO Box: 1375 S. SEMORAN BLVD, BLDG 5, STE 1348
City, State, Zip: WINTER PARK, FL 32792
Telephone number: 407 681 5236
Fax number: 407 671 9608
E-mail address: LJENNINGS @ VERANET.NET

c. Individual to receive statement of revenue (assessment):

Information contained in EFIS is current: ______ initals

Name: SAME AS PARA. 4 ABOVE
Street/ PO Box:
City, State, Zip:
Telephone number:
Fax number:
E-mail address (*):

(*) To facilitate electronic sending of the statement of revenue next year.

In addition provide specific contacts for areas (d. through m.) if applicable on the following pages. In lieu of additional contacts being provided, designate if a, b, or c, above should be identified as the contact.

d. Tariff: *Information contained in EFIS is current:* ______ initals

Name:
Street/ PO Box:
City, State, Zip:
Telephone number:
Fax number:
E-mail address:

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for the year ended December 31, 2003

10. continued

e. CFO/Comptroller: *Information contained in EFIS is current:* ______ initals

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

f. Technical: *Information contained in EFIS is current:* ______ initals

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

g. Surveillance: *Information contained in EFIS is current:* ______ initals

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

h. In-House Attorney: *Information contained in EFIS is current:* ______ initals

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

i. Attorney: *Information contained in EFIS is current:* ______ initals

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

10. continued

Information contained in EFIS is current: ______ initals

j. Consultant:

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

Information contained in EFIS is current: ______ initals

k. Other:

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

Information contained in EFIS is current: ______ initals

l. Area Contact Entry:

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

Information contained in EFIS is current: ______ initals

m. Carrier Billing Relations:

Name: ______
Street/ PO Box: ______
City, State, Zip: ______
Telephone number: ______
Fax number: ______
E-mail address: ______

IXC Annual Report of NOW COMMUNICATIONS, INC.

for the year ended December 31, 2003

VERIFICATION

The foregoing report must be verified by the oath of the President, Treasurer, General Manager or Receiver of the company. The oath required may be taken before any person authorized to administer an oath by the laws of the State in which the same is taken.

OATH

State Of FL
County Of Orange } ss:

Larry W Seab makes oath and says that
(Insert here the name of the affiant)

s/he is President /CEO
(Insert here the official title of the affiant)

of Now Communications, INC
(Insert here the exact legal title or name of the respondent)

that s/he has examined the foregoing report; that to the best of his or her knowledge, information, and belief, all statements of fact contained in the said report are true and the said report is a correct statement of the business and affairs of the above-named respondent.

January 1, 2003, to and including December 31, 2003

(Signature of affiant)

Subscribed and sworn before me, a Notary Public in and for the State and county above named, this 2 day of April, 2004

My Commission expires Mar 3, 2006

OFFICIAL SEAL
Denise Caballero
DD# 096650
My Commission Expires Mar. 3, 2006

NOTARY PUBLIC STATE OF FLORIDA

(Signature of officer authorized to administer oaths)

Missouri Revised Statutes § 392.210

Original must be mailed to:
Manager of the Data Center
MoPSC, 200 Madison Street, Suite 100
P.O. Box 360, Jefferson City, MO 65102-0360

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held at its office in Jefferson City on the 2nd day of October, 2003.

In the Matter of the Joint Application of Now Acquisition Corporation and NOW Communications, Inc., for Authority to Transfer Certain Assets of Now Communications, Inc., to Now Acquisition Corporation.	)))))	**Case No. XM-2004-0065**

ORDER SETTING ASIDE ORDER DIRECTING FILING AND APPROVING TRANSFER OF ASSETS

Syllabus: This order approves the transfer of assets and customers from NOW Communications, Inc., to Now Acquisition Corporation, sets aside an Order Directing Filing and grants a waiver of Commission Rule 4 CSR 240-33.150. Also, to facilitate cancellation of the certificate of service authority and tariffs of NOW Communications, Inc., this order requires the parties to provide notice to the Commission upon the close of the proposed transfer.

The Parties

NOW Communications is a Mississippi corporation with its principal offices located in Jackson, Mississippi. NOW holds certificates to provide basic local (Case No. TA-98-390) and intrastate interexchange (Case No. TA-98-502) telecommunications services in Missouri. NOW also holds authority to provide international telecommunications services pursuant to authority of the Federal Communications Commission.

Now Acquisition is a Delaware corporation with its principal office located in Boca Raton, Florida. Now Acquisition is a wholly-owned subsidiary of BiznessOnline.com, Inc., d/b/a VeraNet Solutions. Although not currently certificated to provide service in Missouri, Now Acquisitions has pending before this Commission applications to provide basic local and interexchange telecommunications services.

The Office of the Public Counsel, although a party to this case, has not participated or filed any pleadings in this matter.

The Application and Motion

On July 25, 2003, Now Acquisition Corporation and NOW Communications, Inc., filed an application for authority to transfer the assets and customers from NOW to Now Acquisition. Joint Applicants inform the Commission that NOW recently filed for reorganization under Chapter 11 of the United States Code for the Southern District of Mississippi. Joint Applicants state that approval of the application will allow Now Acquisition to assume responsibility for the service to NOW's existing customers without an interruption in service. Additionally, the proposed transaction will not involve a change in the manner in which NOW's customers will receive telecommunications services. Joint Applicants also inform the Commission that the proposed transaction will have no tax impact on any political subdivision in the state of Missouri.

On September 11, 2003, the Commission considered the application and issued an order directing that Joint Applicants file with the Commission an order from the Bankruptcy Court that authorizes the Commission to go forward with the application. On September 18, 2003, Joint Applicants filed with the Commission a Motion for Reconsideration and Request for Conditional Order Approving Transfer of Assets. In the Motion, Joint Applicants recognize that "an Order of the Bankruptcy Court is a prerequisite to closing the transfer transaction herein." The Joint Applicants further state that they "anticipate the Order of the Bankruptcy Court approving the Asset Purchase Agreement will provide that the transfer shall take place upon receipt by Joint Applicants of the requisite federal and state regulatory approvals." Joint Applicants also point out that a delay in the approval to the transfer may jeopardize continuous telecommunications service to customers.

Staff Memorandum

On September 3, 2003, the Staff of the Commission filed its memorandum, recommending that the Commission approve the proposed transfer. Staff opines that the proposed transaction is not detrimental to the public interest. Staff informs the Commission that customers have been notified of the proposed transaction. A copy of the notice is attached to the application. Staff also recommends that the Commission approve a waiver of Commission Rule 4 CSR 240-33.150, which requires that written authorization from each customer be obtained prior to the change of a service provider. Lastly, Staff does not object to the Commission expediting this matter and granting approval of the proposed transaction by September 23, 2003.

Discussion

Section 392.300, RSMo 2000, and Commission Rule 4 CSR 240-3.520 govern this transfer of assets and customers. Section 392.300 requires that applicants obtain Commission approval to consummate the proposed transfer. This section, as does Commission Rule 4 CSR 240-3.520(2)(F), also requires that applicants submit a statement concerning the tax impact the proposed transaction will have on the political subdivisions in which the applicants' facilities are located. The Commission has reviewed the filings and Staff's memorandum and finds that the requirements of both codifications have been satisfied.

Although Joint Applicants have not requested a waiver of Commission Rule 4 CSR 240-33.150, Staff recommends that the Commission grant a waiver of the rule. The purpose of Rule 4 CSR 240-33.150 is to prevent "slamming," or the unauthorized change of a customer's telecommunications carrier without the customer's knowledge. The Rule requires that written authorization from each customer be obtained prior to the change of a service provider. Joint Applicants have provided notice of the proposed transaction to the customers. The notice provides a toll-free number for customers to call for additional information. A copy of the notice is attached to the application as Exhibit B. Under Commission Rule 4 CSR 240-2.015, the Commission can waive its rules for good cause. The customers whose service will be transferred have been notified of the change and have been provided a toll-free number to obtain additional information. Additionally, the proposed transaction will not affect the rates, terms and conditions under which the customers currently receive services. The Commission finds that there is good cause to waive Commission Rule 4 CSR 240-33.150 and will grant the waiver.

Although there is no state statute or regulation that sets a standard upon which the Commission must base its decision to approve a transfer of assets, the court in *State ex rel. Fee Fee Trunk Sewer Inc., v. Litz,* 596 S.W.2d 466 (Mo. App. E.D. 1980), stated that "[t]he Commission may not withhold its approval of the disposition of assets unless it can be shown that such disposition is detrimental to the public interest." It has not been shown that the transfer of assets and customers from NOW Communications to Now Acquisition will be detrimental to the public interest. The transfer will not affect the rates or terms of services currently provided to NOW's customers. The customers have been notified and no requests for intervention have been made. Lastly, Staff has opined that the proposed transaction will not be detrimental to the public interest. The Commission finds that a detriment to the public interest has not been shown and that the proposed transfer will be approved.

Bankruptcy Considerations

Under the Bankruptcy Code, at 11 U.S.C. §362(a), the filing of a petition operates as an automatic stay. However, under 11 U.S.C. §362 (b)(4), an exception is made for "an action or proceeding by a governmental unit . . . to enforce such governmental unit's police and regulatory power . . . ." This exception has been interpreted to specifically apply to agency actions. *Eddleman v. United States Department of Labor*, 923 F.2d 782 (10th Cir. 1991). Furthermore, in *Eddleman,* the court developed a two-prong test to determine whether an agency action fits within the exception. If the governmental action is to protect a "pecuniary interest", then the exception does not apply. On the other hand, if the action is aimed at effectuating public policy, then the action falls under the exception.

The public policy interest with regard to the Commission's approval of a transfer of assets is that the transfer not be a detriment to the public interest. Furthermore, the present transfer is being approved to ensure continuity of service to NOW's subscribers. This squarely meets the two-prong test set forth in *Eddleman* and falls within the exception to the automatic stay provision under the Bankruptcy Code.

Conclusion

The Commission has reviewed the application, Staff's memorandum, the Bankruptcy Code, and relevant case law. The Commission finds that as a result of the proposed transfer, NOW's customers will not experience a change in the service they currently receive. The customers have been notified of the proposed transfer and no applications to intervene have been filed. Because it has not been shown that the proposed transfer would be detrimental to the public interest, the Commission will grant its approval. Additionally, good cause having been shown, the Commission will waive the application of Commission Rule 4 CSR 240-33.150.

Although NOW's filing of a petition in Bankruptcy Court operates as an automatic stay of actions involving its assets, there is an exception for proceedings by a governmental unit to enforce its regulatory power when such action is aimed at effectuating public policy. The Commission finds that its approval of this transfer of assets falls under this exception to the automatic stay and will set aside its Order Directing Filing.

Finally, to facilitate cancellation of NOW Communications' certificates and tariffs, the Commission will require that Joint Applicants notify the Commission upon completion of the proposed transfer.

IT IS THEREFORE ORDERED:

1. That the Order Directing Filing, issued on September 11, 2003, is set aside.

2. That the proposed transfer of assets and customers from NOW Communications, Inc., to Now Acquisition Corporation is approved.

3. That the application of Commission Rule 4 CSR 240-33.150 is waived.

4. That the parties shall notify the Commission upon completion of the proposed transfer.

5. That this order shall become effective on October 12, 2003.

BY THE COMMISSION

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Simmons, Ch., Forbis and Clayton, CC., concur.
Murray and Gaw, CC., absent.

Jones, Regulatory Law Judge