DT 99-124

ONESTAR LONG DISTANCE, INC.

Petition to Acquire Customer Base

Order Approving Acquisition With Conditions

O R D E R N O. 23,327

October 25, 1999

On July 27, 1999, OneStar Long Distance, Inc. (OneStar) filed an Application for Approval of its acquisition of the long distance customer base of USTel, Inc. and its wholly owned subsidiary Arcada Communications, Inc. (collectively USTel). On August 13, 1999, OneStar filed an Application for Approval of its acquisition of the long distance customer base of NeTel, Inc. d/b/a Tel 3; OneStar amended its Petition on August 26, 1999, to reflect the name NeTel, Inc. (NeTel)

OneStar, a nationwide provider of telecommunications services, is a registered competitive toll provider in New Hampshire pursuant to Order No. 22,473 (January 6, 1997). Both USTel and NeTel, according to OneStar, recently declared bankruptcy and chose to transfer their long distance customer bases to OneStar. OneStar avers that transfer of the customer bases will serve the public interest by providing the customers more services by a financially stable carrier and by allowing OneStar to accelerate its growth as a competitor. OneStar states that the transfer will result in no change in customers’ rates, terms, or conditions of service.

We find that OneStar's acquisition of the assets of USTel and NeTel is in the common good and public interest, a finding necessitated by RSA 374:30 to approve the transfer of a public utility's franchise, works, or system. With regard to USTel, the system to be transferred consists, *inter alia,* of customer base, computerized billing systems, switch usage, and collection rights; with regard to NeTel, the system consists of customer base alone. We addressed the issue of customer base transfer in our Order No. 23,234 (June 14, 1999)in DT 99-077, Re RSL COM U.S.A., Inc. (RSL), a case of first impression. On page 4 in that order, we "noted that we cannot approve the transfer of a 'customer base.'" Further elucidating the intent of our words, we here determine that a transfer of a customer base in New Hampshire is conditioned or limited by RSA 374:28-a. RSA 374:28-a prohibits changes of a customer's service provider without the customer's knowledge or consent, a practice known as slamming. Therefore, we approve the transfer of a customer base only to the extent that the acquisition of each customer's long distance service is conditioned on notice to the customer of his/her opportunity to choose, without additional charge, another long distance carrier not less than fourteen days after the date of the notice.

As we stated in RSL, "[I]t is imperative that customers have adequate advance notice that a carrier proposes to stop serving them, of their ability to choose another carrier, and of the identity of the carrier that will serve them if they do not make a choice by the end of the notice period." Id. p. 3. A carrier which does not provide the requisite notice and opportunity to choose a different carrier is guilty of slamming and subject to the penalties described in RSA 374:28-a. We approve OneStar as the default carrier should the customer not choose another carrier within the time allotted.

Based upon the foregoing, it is hereby

ORDERED, that the transfer of USTel and NeTel assets to OneStar Long Distance, Inc. is hereby APPROVED as conditioned above.

By order of the Public Utilities Commission of New Hampshire this twenty-fifth day of October, 1999.

Douglas L. Patch Chairman	Susan S. Geiger Commissioner	Nancy Brockway Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary