

DT 99-075

**RHYTHMS LINKS, INC.**

**Withdrawal of Certification to Operate  
in the State of New Hampshire**

**Order Granting Request**

**O R D E R N O. 23,899**

**January 17, 2002**

**I. INTRODUCTION AND BACKGROUND**

On November 30, 2001, the New Hampshire Public Utilities Commission (the Commission) received notification from Rhythms Links, Inc. (Rhythms) of its bankruptcy and subsequent discontinuance of business operations. Rhythms is a New Hampshire-certified CLEC pursuant to Order Nisi No. 23,242 (June 22, 1999) in Docket No. DT 99-075.

Rhythms reports voluntarily filing for reorganization under Chapter 11 of the United States Bankruptcy Code in the Southern District of New York on August 1, 2001. The failure to obtain additional financing by the Court-appointed deadline caused Rhythms to seek FCC permission to discontinue operations and notify all remaining customers of the imminent termination of service. On September 24, 2001, the FCC granted that request and services throughout the United States were discontinued.

Rhythms states in its request that it has had no New Hampshire customers since January 31, 2001. Therefore, Rhythms avers that compliance with New Hampshire Code of Administrative Rules Puc 1304.03(d)(1,2 and 3), which mandate the customer notification procedures for public utility service termination, are not applicable.

## **II. STAFF RECOMMENDATION**

Staff concurs with Rhythms' assertions. As there are no customers, the particular provisions of the rules are moot.

Additionally, RSA 374:28 requires that the Commission determine that cessation of service is in the public good. It is understood that a competitive market may bring failure as it may bring success. Given that competition in the telecommunications marketplace is recognized as a public benefit then it follows that the departure of a competitor must also be in the overall public good. Accordingly, the Staff recommends granting Rhythms' request to withdraw certification.

## **III. COMMISSION ANALYSIS**

It is unfortunate to observe competitors departing from the telecommunications marketplace but some attrition is inevitable. Given that Rhythms has had no New Hampshire

customers in almost a year and that the FCC has approved the termination, we find cessation of operations by Rhythms not to be detrimental to the public good. We therefore will grant their request by withdrawing any certification previously granted. However, granting this authority does not relieve Rhythms of obligations it may have incurred while authorized to provide service in New Hampshire.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the request of Rhythms Links, Inc. to withdraw the certification issued in Order Nisi No. 23,242 is GRANTED.

By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 2002.

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Thomas B. Getz  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director and Secretary