

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Joint application for approval) DOCKET NO. 900021-TI
of acquisition of control of Interex-)
change Certificate No. 1527 through) ORDER NO. 22668
merger of AMERICAN NETWORK EXCHANGE,)
INC. and NYCOM INFORMATION SERVICES, INC.) ISSUED: 3-12-90
)

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
THOMAS M. BEARD
BETTY EASLEY
GERALD L. GUNTER
JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING THE TRANSFER OF CONTROL OF INTEREXCHANGE CERTIFICATE NO. 1527 TO NYCOM INFORMATION SERVICES, INC., UPON CONDITIONS THAT AMERICAN NETWORK EXCHANGE, INC., SHALL PAY FINES FOR ITS LATE FILING OF 1988 AND 1989 ANNUAL REPORTS AND OUTSTANDING REGULATORY ASSESSMENT FEES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

I. APPLICATION

On January 9, 1990, American Network Exchange, Inc., (AMNEX) and NYCOM Information Services, Inc., (NYCOM) filed a joint application for approval of the transfer of control of Certificate No. 1527 currently issued to AMNEX. This transfer of control will result from the proposed merger of AMNEX and AMNEX Acquisition Corporation (AAC). AAC is a wholly-owned subsidiary of NYCOM, a New York corporation. The petition was filed in the form of the certification application form

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pursuant to Rule 25-24.473, Florida Administrative Code.

AMNEX is presently certificated in Florida to provide intrastate interexchange telecommunications service. NYCOM is authorized to provide resold intrastate long distance telecommunications service in New York. It provides this service to large and small businesses.

As a result of the merger, AMNEX will cease to exist and all assets, properties, liabilities and obligations of AMNEX will belong to AAC. NYCOM, through its ownership of AAC, will assume effective control of AMNEX's certificate to provide intrastate interexchange service in Florida. The corporation resulting from the merger will be named American Network Exchange, Inc.

Rule 25-24.473, Florida Administrative Code, requires applicants that want to sell, assign or transfer a certificate to supply this Commission with all the information that is required of an applicant seeking interexchange authority. The merger of AMNEX and AAC results in a transfer of control of Certificate No. 1527, which was transferred from Diversified Communications Group, Inc., to AMNEX on June 29, 1988. AMNEX currently provides resold intrastate interexchange telecommunications services, as well as operator services.

AAC is a wholly-owned subsidiary of NYCOM Information Services, Inc. (NYCOM), which is a New York Corporation. NYCOM provides resold intrastate interexchange services in New York, Massachusetts and Maryland. It provides this service to business customers. Based on contacts by our Staff with the New York Commission, there are no outstanding fines or complaints against NYCOM to date.

II. FAILURE TO TIMELY FILE 1988 AND 1989 ANNUAL REPORTS

In the past two years, however, AMNEX has not complied with Rule 25-24.480, Florida Administrative Code, which requires the filing of an annual report. By Order No. 21429, we fined AMNEX \$1,000 for failure to timely file its 1988 annual report pursuant to Rule 25-24.480, Florida Administrative Code. AMNEX paid \$500 and we suspended the remainder of the fine pending AMNEX's timely filing of its 1989 annual report. However, as of February 22, 1990, AMNEX had not timely filed its 1989 annual report. Therefore, AMNEX shall

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pay the suspended portion of last year's fine pursuant to Order No. 21429.

III. APPROVAL GRANTED PURSUANT TO CERTAIN CONDITIONS

In consideration of the foregoing, we find it appropriate to approve the transfer of control of Certificate No. 1527 by the merger of AAC and AMNEX. However, our approval is conditioned upon the fulfillment of the following conditions by AMNEX: 1) the payment of the \$500 fine initially levied and suspended by Order No. 21429; 2) the payment of the \$4,000 fine amount stipulated to by AMNEX at our March 6, 1990, Agenda Conference, within ten days after the issuance of this Order; and 3) the payment of any outstanding regulatory assessment fees due. Upon fulfillment of all of these conditions, our approval of the transfer of control of Certificate No. 1527 will become final.

This proposed agency action Order will become final and effective unless an appropriate petition of protest is filed by one whose substantial interests may or will be affected by this proposed agency action, as provided by Rule 25-22.029, Florida Administrative Code. If no such protest is filed, this docket shall be closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the application for approval of the transfer of control of Certificate No. 1527 filed jointly by American Network Exchange, Inc., and NYCOM Information Services, Inc., is hereby approved based upon the fulfillment of the conditions set out in the body hereof. It is further

ORDERED that American Network Exchange, Inc., shall pay all outstanding regulatory assessment fees, the \$500 fine required by Order No. 21429, and the \$4,000 fine stipulated to for its failure to timely file its 1989 annual report. It is further

ORDERED that the provisions of this Order are issued as proposed agency action and shall become final unless a petition in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at his office at 101 East Gaines Street,

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Tallahassee, Florida 32399-0870, by the close of business on March 26, 1990. It is further

ORDERED that, if no protest is received within the 14 day protest period set out in the Notice of Further Proceedings below, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 12th day of MARCH, 1990.

STEVE TRIBBLE
Director of Records and Reporting

(S E A L)

SFS

by: Kay Hlyon
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 26, 1990.

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In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.