

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7053

Joint Petition of AmeriVision Communications,)
Inc. d/b/a LifeLine Communications and)
Nonprofit and Affinity Marketing, Inc., for)
Approval of a Sale of Assets)

Order entered: 4/13/2005

I. INTRODUCTION

On February 11, 2005, AmeriVision Communications, Inc. d/b/a LifeLine Communications ("AmeriVision"), and Nonprofit and Affinity Marketing, Inc. ("NAM") (collectively "Petitioners"), jointly filed a Telecommunications Merger and/or Acquisition Request for Approval Form ("Petition") requesting authority from the Vermont Public Service Board ("Board"), pursuant to 30 V.S.A. §§ 109 and 311, for the acquisition of AmeriVision's assets by NAM.

On March 30, 2005, the Vermont Department of Public Service ("Department") filed a letter with the Board recommending the Board approve the transaction because it would not detrimentally impact Vermont consumers or cause them inconvenience or confusion. The Department further recommended the Board approve the Petition without further investigation or hearing.

The Board has reviewed the Petition and the accompanying documents and agrees that approval should be granted without hearing.

II. FINDINGS OF FACT

Based upon the Petition and accompanying documents, we hereby make the following findings of fact.

1. AmeriVision is authorized to provide telecommunications services in Vermont pursuant to a Certificate of Public Good ("CPG No. 241") granted by the Board on June 25, 1996. Petition at 1.
2. NAM is not authorized to provide telecommunications services in Vermont. Petition at 1.

3. Pursuant to a plan of reorganization arising from AmeriVision's bankruptcy, NAM has received authorization from the United States Bankruptcy Court for the Western District of Oklahoma to acquire AmeriVision's assets and customer base. Petition at 1 and Exh. I.

4. Following the transaction, AmeriVision will be reorganized as a Delaware limited liability corporation and will become a wholly-owned subsidiary of NAM. AmeriVision will continue to be the entity providing telecommunications services in Vermont. No changes to the rates and services offered to AmeriVision customers are contemplated. Accordingly, the transactions will not cause any inconvenience for Vermont consumers. Petition at 2-3.

5. The proposed transaction will provide AmeriVision with additional capital allowing the company the opportunity to strengthen its position in the Vermont telecommunications marketplace, thereby, strengthening competition for telecommunications services and promoting the public interest. Petition at 3.

III. DISCUSSION

The proposed transaction requires approval by the Board under 30 V.S.A. §§ 109 and 311. The statutes condition approval of a merger upon a finding that the merger or sale of assets will promote the public good (30 V.S.A. § 109) and will not obstruct or prevent competition (30 V.S.A. § 311). These standards are met in this case.

Pursuant to 30 V.S.A. § 109, "a foreign corporation subject to the jurisdiction of the [Board], shall not make a sale . . . in any one calendar year constituting ten percent or more of the company's property located within this state . . . nor merge nor consolidate . . ." without approval of the Board. 30 V.S.A. § 311 states that "[a] consolidation or merger . . . shall not become effective without the approval of the [Board] . . ." In order to approve the sale of assets, the Board must first find that it will "promote the general good of the state." 30 V.S.A. § 109.

After reviewing the Petition, we conclude that 30 V.S.A. §§ 109 and 311 apply to the sale of assets of AmeriVision, which is a certificated telecommunications carrier in Vermont. We further conclude that the asset sale to NAM will not cause undue inconvenience for Vermont customers and allow AmeriVision's customers to continue uninterrupted service. The sale of assets, therefore, will promote the public good. For all of these reasons, we conclude that the proposed transaction meets the standards set forth in 30 V.S.A. §§ 109 and 311 and should be approved.

IV. CONCLUSIONS

The sale of assets of AmeriVision should be approved because the transaction will promote the public good of the State of Vermont and will not result in obstructing or preventing competition. 30 V.S.A. §§ 109, 311.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The sale of assets of AmeriVision Communications, Inc. d/b/a LifeLine Communications to Nonprofit and Affinity Marketing, Inc., will promote the public good and, therefore, is approved.
2. Petitioners shall file a letter notifying the Board of the completion of the transaction within one week of such completion.
3. A Certificate of Consent to the sale of assets of AmeriVision Communications, Inc. d/b/a LifeLine Communications, shall be issued.

Dated at Montpelier, Vermont, this 13th day of April, 2005.

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| <u>s/James Volz</u> |) | |
| |) | PUBLIC SERVICE |
| |) | |
| <u>s/David C. Coen</u> |) | BOARD |
| |) | |
| |) | OF VERMONT |
| <u>s/John D. Burke</u> |) | |

OFFICE OF THE CLERK

Filed: April 13, 2005

Attest: s/Judith C. Whitney
Acting Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us).

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.