

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

RECEIVED

APR 30 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re: )  
)  
CORECOMM LIMITED )  
)  
Petition for Waiver of )  
Sections 64.1100-64.1190 of )  
the Commission's Rules; )  
**Request for Expedited Treatment** )

File No. \_\_\_\_\_

To: The Chief, Enforcement Division  
Common Carrier Bureau

**PETITION FOR WAIVER OF SECTIONS 64.1100 - 64.1190  
OF THE COMMISSION'S RULES  
AND REQUEST FOR EXPEDITED TREATMENT**

CoreComm Limited ("CoreComm"), on behalf of itself and its operating subsidiaries, hereby requests a waiver of the authorization and verification requirements of the Commission's rules, 47 C.F.R. §§ 64.1100-64.1190, and Carrier Change Orders<sup>1/</sup> in connection with CoreComm's pending acquisition out of bankruptcy of the customer accounts and other assets of USN Communications, Inc. ("USNC") and its subsidiaries. As described below, the Bankruptcy Court has approved the sale of USNC's assets to CoreComm and the parties anticipate a May 13, 1999 closing date. Accordingly, CoreComm respectfully requests expedited treatment of this

<sup>1/</sup> Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Further Notice of Proposed Rule Making and Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 10674 (1997), Second Report and Order and Further Notice of Proposed Rule Making, FCC 98-334 (released Dec. 23, 1998) ("Anti-Slamming Second Report and FNPRM"); Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, Report and Order, 10 FCC Rcd 9560 (1995), *stayed in part*, 11 FCC Rcd 856 (1995); Policies and Rules Concerning Changing Long Distance Carriers, 7 FCC Rcd 1038 (1992), *recon. denied*, 8 FCC Rcd 3215 (1993); Investigation of Access and Divestiture Related Tariffs, Phase I, 101 F.C.C.2d 911 (Allocation Order), 101 F.C.C.2d 935 (Waiver Order), *recon. denied*, 102 F.C.C.2d 503 (1985).

petition to ensure a seamless transition and uninterrupted service to USNC's customers.

## **I. BACKGROUND**

CoreComm is a public company traded on the NASDAQ stock exchange under the symbol COMMF, with headquarters at 110 E. 59<sup>th</sup> Street, New York, NY 10022. Through its wholly-owned subsidiary, CoreComm Newco, Inc., CoreComm is currently providing local and long distance, wireless, Internet, and other services (on both a facilities and resold basis) to residential and business customers in Ohio. CoreComm Newco is also authorized by the Commission to offer domestic interstate and international services nationwide as a non-dominant carrier.<sup>2</sup> USNC is a Delaware corporation, with principal offices located at 10 S. Riverside Plaza Chicago, Illinois 60606. USNC, through various operating subsidiaries, is authorized to provide intrastate interexchange services in 47 states and to provide local telephone services in 19 states.<sup>3</sup> USNC is also authorized by the FCC, through a subsidiary, to offer domestic interstate and international services nationwide as a non-dominant carrier.<sup>4</sup>

On February 19, 1999, USNC and CoreComm executed an Asset Purchase Agreement ("Agreement") under which CoreComm will acquire at closing substantially all of USNC's assets, with the exception of the assets of USN Wireless, Inc. and its subsidiaries, free and clear of liens, claims, and other encumbrances except as expressly assumed in the Agreement.<sup>5</sup> The

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<sup>2</sup> File No. ITC-98-338 (effective June 17, 1998).

<sup>3</sup> USNC's operating subsidiaries include, among others, USN Communications Midwest, Inc., USN Communications Northeast, Inc., USN Communications West, Inc., USN Communications Atlantic, Inc., USN Communications Southwest, Inc. and USN Communications Maine, Inc.

<sup>4</sup> USNC holds two Section 214 authorities from the Federal Communications Commission: (1) File No. ITC-95-213 (effective April 24, 1995), initially held in the name USN Communications, Inc., which USN subsequently re-named USN Communications Midwest, Inc; and (2) File No. ITC-94-328 (effective July 16, 1994), initially held in the name United Telemanagement Services, Inc., which USNC subsequently re-named USN Communications Northeast, Inc.

<sup>5</sup> USNC and CoreComm are entirely separate public companies with no overlapping officers, directors, or significant shareholders. The Agreement between CoreComm and USNC was entered into

assets to be purchased include the customer accounts of USNC's operating subsidiaries.

Concurrently with execution of the Agreement, USNC and twelve of its subsidiaries filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, in the United States Bankruptcy Court for the District of Delaware. With their Chapter 11 petitions, USNC and the selling subsidiaries filed a motion for the Bankruptcy Court's approval of the sale of their assets and business as a going concern to CoreComm under the Agreement, as the best way to maximize creditor recoveries and preserve uninterrupted service to their customers. On April 2, 1999, the Bankruptcy Court approved USNC's motion and authorized and directed USNC and its subsidiaries to sell their assets to CoreComm as provided in the Agreement.<sup>67</sup> On or around May 13, 1999, USNC intends to transfer the subject assets to CoreComm, including its carrier identification codes. CoreComm will provide service to USNC's customers under the same rates, terms, and conditions as currently provided for in USNC's tariffs and contracts.

## II. WAIVER REQUEST

Grant of a waiver is appropriate if special circumstances exist and approval will serve the public interest.<sup>77</sup> CoreComm's instant request satisfies these criteria. USNC is currently in bankruptcy and CoreComm intends to ensure that USNC's customers receive uninterrupted high quality service. A waiver of the Commission's verification rules is necessary to ensure a seamless transition of these customers to CoreComm at closing.<sup>87</sup> In similar circumstances, the

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on an arms-length basis.

<sup>67</sup> In re USN Communications, Inc., Case Nos. 99-383(PJW) (Bankr. D.Del. Apr. 2, 1999)

<sup>77</sup> See, e.g., Wait Radio v. FCC, 418 F.2d 1153, 1159 (D.C.Cir. 1969); Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; EqualNet Corp. Request for Waiver, Order, CC Docket No. 94-129 (rel. Mar. 15, 1999) ("EqualNet").

<sup>87</sup> It is not at all clear that the Commission's carrier change rules were intended to apply in the context of an asset purchase transaction, transfer of control, or merger, especially if the new carrier provides

Commission granted a waiver of Sections 64.1100-64.1190 of its rules to a requesting carrier last month.<sup>9/</sup>

Grant of the requested waiver will serve the public interest because it will permit a seamless transition of customers to CoreComm and the introduction of a strong competitor into the telecommunications marketplace. CoreComm and USNC are using a phased approach to fully advise USNC's customers of the assumption of their service by CoreComm. Indeed, all customers have already been notified of the transaction and that they will continue to be billed at the same rates and under the same terms and conditions contained in USNC's tariffs, including USNC's interstate long distance and international tariffs.<sup>10/</sup> Prior to closing, with the May 10, 1999 billing cycle, further notices will be included.<sup>11/</sup> After the closing, the customers will receive additional notifications of the change through bill inserts, direct customer communications, and other means. Moreover, the transaction between CoreComm and USNC has been widely reported in the media, and the companies have established 24-hour 800 numbers, which are manned by customer relations personnel who are being specially trained to

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service under the same arrangements as the selling carrier, and does not "submit a preferred carrier change order." 47 C.F.R. § 64.1150. Nevertheless, CoreComm is filing the instant request out of an abundance of caution.

<sup>9/</sup> EqualNet, CC Docket No. 94-129 (rel. Mar. 15, 1999). Unlike the situation in the EqualNet case, CoreComm has been advised by USNC that, to the best of USNC's knowledge upon inquiry, there are no customer complaints against the company pending at the Commission.

<sup>10/</sup> See Exhibit 1, Letter from Dennis Dundon, Chief Operating Officer, USN Communications, Inc., to USN Customers, dated March 5, 1999; Notification, "CoreComm to Acquire USN" (included on USNC's April 1999 customer bills). CoreComm is in the process of adopting USNC's tariffs or issuing tariffs that are identical to USNC's tariffs in all jurisdictions where USNC has customers. During a transition period, CoreComm will provide telecommunications service to USNC customers under these tariffs. At the FCC, CoreComm will adopt and provide service to USNC customers under the international telecommunications service tariffs of USN Communications Midwest, Inc. and USN Communications Northeast, Inc., and the interstate long distance tariff of USN Communications Long Distance, Inc.

<sup>11/</sup> See Exhibit 2, Bill Message and Insert; Letter from Barclay J. Knapp, Chief Executive Officer, CoreComm and Patty J. Flynt, President, CoreComm to USNC customers, to be mailed May 13, 1999.

answer questions about this matter.

CoreComm is well qualified to provide superior, reliable service to USNC's customers. CoreComm has a highly qualified management team with extensive experience in the telecommunications industry. Grant of this waiver will permit CoreComm to provide USNC's customers with the same high quality, reliable service it currently provides to its own customers.

### **III. EXPEDITED TREATMENT**

CoreComm seeks expedited treatment of this petition to permit the closing of the sale of USNC's assets to CoreComm to proceed, as anticipated, on May 13, 1999. As discussed above, the Bankruptcy Court approved the sale of USNC's assets to CoreComm earlier this month and a prompt grant of this waiver will help ensure that USNC's customers are seamlessly transferred to CoreComm without any disruption in service. In light of USNC's bankruptcy, a prompt transition of the customers to CoreComm would promote the public interest.

## CONCLUSION

For the foregoing reasons, CoreComm respectfully requests that the FCC grant it, on an expedited basis, prior to the anticipated closing date of May 13, 1999, a waiver of Sections 64.1100-64.1190 of the Commission's rules and Carrier Change Orders.

Respectfully submitted,

CORECOMM LIMITED

By 

Sara F. Seidman  
A. Sheba Chacko  
Mintz, Levin, Cohn, Ferris,  
Glovsky & Popeo  
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Suite 900  
Washington, D.C. 20005  
(202) 434-7300

Its Attorneys

April 30, 1999

DCDOCS: 148716.1

# **EXHIBIT 1**

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USN Communications, Inc.

March 5, 1999

[Name]  
[Address1]  
[Address1]  
[City], [State] [Zip Code]

Dear USN Customer,

As one of our valued customers, we'd like to share some very exciting news with you.

***"USN Communications has agreed to be acquired by CoreComm Limited - a full-service telecommunications company. Customers will soon be served by CoreComm and will benefit from an even greater level of service and an increased number of innovative solutions," said USN's Chairman, President and Chief Executive Officer, J. Thomas Elliott.***

We are pleased to inform you that CoreComm Limited, a rapidly growing full-service telecommunications provider headquartered in New York, NY, with offices in Cleveland and Columbus, OH, has signed a definitive agreement to purchase USN's Local and Long Distance Services.

The management team at CoreComm is well recognized in the industry for their extensive telecommunications background and successful track record in bundling multiple services on a single bill. In fact, the affiliate companies they have developed are valued in excess of \$15 billion and provide voice, video, and data services to customers worldwide.

In addition to announcing the agreement to acquire USN Communications, CoreComm recently announced an acquisition agreement of MegsNet, a fast-growing national Internet network company, also based in Chicago.

For you, CoreComm brings an opportunity for greater service levels and a broader range of innovative communications solutions to meet your business needs. Not only will you continue to receive high quality local and long distance services, but also in the future, you will have access to advanced high-speed Internet and data technologies.

To expedite its sale to CoreComm, USN filed a voluntary petition for reorganization under Chapter 11 in the United States Bankruptcy Court, District of Delaware. We expect this sale to close by the early part of second quarter of 1999.

**Most importantly, let me reassure you that your current USN Communications services will remain uninterrupted during this transition and approval process. We will continue to provide you with high quality, customer service support, 24 hours a day, seven days a week. You can always reach a service representative at 1-877-USN-CARES (1-877-876-2273).**

We're committed to providing you with reliable and continuous service. I'm confident that CoreComm, with its management expertise and resources, will provide you with an even greater array of advanced telecommunications and Internet services. As we move forward, we'll continue to keep you up-to-date on all the good news to come.

Sincerely,



Dennis Dundon  
USN Communications, Inc.  
Chief Operating Officer



From: USN Communications, Inc.  
9th Floor-Operations  
498 7th Avenue  
New York, NY 10018

To:



\*23 30066464\*

## **CORECOMM TO ACQUIRE USN**

**USN is selling its business to CoreComm,  
a full service telecom provider. This  
transition will not affect your service  
in any way. USN customer service is  
available 24 hours a day. Questions?  
Call 1-877-USN-CAREs.**

Account Number:  
Account Name:  
Invoice Date:  
Bill Period:



## STATEMENT OF ACCOUNT

**PAYMENT IS DUE UPON RECEIPT  
PLEASE MAKE CHECK PAYABLE TO  
USN COMMUNICATIONS**

**- IMPORTANT -**

This invoice reflects payments and adjustments received through March 31, 1999.  
Payments and adjustments received after March 31, 1999 will appear on your next invoice.

Previous Balance	<del>50.00</del>
Payments & Adjustments	\$0.00
Charges & Credits	\$0.00
Past Due Balance	<del>50.00</del>
Current Charges	\$0.00
Total Amount Due	<del>50.00</del>

**TO ENSURE UNINTERRUPTED SERVICE,  
PLEASE KEEP YOUR ACCOUNT CURRENT.**

Please detach and return with your check payable to USN Communications

**PAYMENT IS DUE UPON RECEIPT  
PLEASE MAKE CHECK PAYABLE TO  
USN COMMUNICATIONS**



Account No:  
Account Name:  
Invoice Date:  
Usage Period:

Total Due:  
Amount Enclosed:

USN Communications  
PO Box 10255  
Newark, NJ 07193-0255

30066464-9

# **EXHIBIT 2**

May 10, 1999 bill run: One bill message, one bill insert

BILL MESSAGE COPY:

**CORECOMM - YOUR CHOICE IN TELECOMMUNICATIONS!**  
CoreComm, a full-service telecommunications company, is acquiring the assets of USN. This involves no service interruption for any USN customers. Please call 877-USN-CARE. We would love to hear from you.

BILL INSERT COPY:

May 1999

Dear Valued USN Customer,

Over the last several weeks, you have received notifications that the assets of USN Communications are in the process of being acquired by CoreComm. CoreComm is a full-service telecommunications company providing local, long distance, Internet, cellular, toll-free (800/888/877) services, paging, calling cards, and prepaid services, for both business and residential customers.

The acquisition is expected to be complete in May.

Shortly thereafter, you will begin working directly with, and receiving communication from, CoreComm in its capacity as your new telecommunications services provider.

CoreComm is committed to the customer experience. We pride ourselves at delivering reliable technology uniquely packaged to fit individual needs at competitive prices. In the near future, you will hear more about CoreComm and why we want to be Your Choice in Telecommunications!

The customer care telephone number will not change during this process and representatives continue to be available 24 hours a day, seven days a week.

CoreComm wants to ensure that your service remains uninterrupted during the transition process. We are monitoring the transition very closely. If you have any questions or concerns, please don't hesitate to call toll-free 877-USN-CARE (877-876-2273). We would love to hear from you.

CoreComm looks forward to serving your telecommunications needs. You will hear more from CoreComm in the coming weeks. Thank you.

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**CUSTOMER LETTER DRAFT #2**

*To be mailed May 13, 1999*

First Name Last Name

Company

Address

City, State, Zip

Dear (salutation),

**Welcome!**

Over the last several months, you've been hearing about CoreComm and its acquisition of the assets of USN Communications. The transaction has been completed and CoreComm is pleased to be your new telecommunications services provider.

CoreComm is a full-service telecommunications company offering local telephone service, long distance, Centrex, Internet, cellular, paging, toll-free (800/888/877) services, voice mail, calling cards and prepaid services. We are very excited about the opportunity to deliver our unique service packages and total commitment to customer service directly to you.

From now on, you will begin working directly with, and receiving communication from, CoreComm in its capacity as your new telecommunications services provider.

**Your Choice In Telecommunications!**

We understand that this acquisition has facilitated our introduction. Once you've had a chance to get to know us, we feel confident that you will stay and grow with CoreComm.

The management team of CoreComm is the same team that successfully launched NTL, Inc. – a \$15 billion voice, high-speed data and video services provider in the United Kingdom. NTL is now the second-largest telecommunications company in the UK due to its commitment to the customer experience.

Feel confident that with CoreComm, you will receive the latest technology, premier customer service and competitive prices from a company with a strong tradition of innovation and excellence.

**Now we'd like to hear from you.**

CoreComm is monitoring the transition process closely. Our first priority is that your service remains uninterrupted. If, for any reason, you feel that your service has been impacted, please call us toll-free at 877-876-2273. Customer care representatives are available 24 hours a day, seven days a week to assist you.

We will be sending you news and information to introduce you to our unique service packages, new product offerings, and updates on the transition process. If you have any questions or suggestions, please don't hesitate to call our customer care center. CoreComm looks forward to serving you for a long time to come.

Sincerely,

Barclay J. Knapp  
CEO

Patty J. Flynt  
President

**CERTIFICATE OF SERVICE**

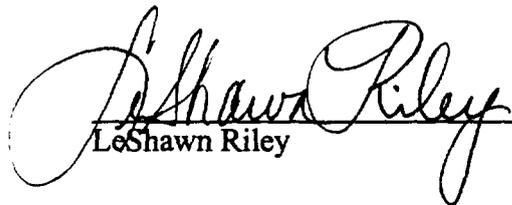
I, LeShawn Riley, do hereby certify that on this 30<sup>th</sup> day of April, 1999, I caused a copy of the foregoing Request for Waiver and Expedited Treatment to be sent by messenger to the following:

Dorothy Attwood  
Chief, Enforcement Division  
Common Carrier Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 5-A848  
Washington, D.C. 20554

Glenn Reynolds  
Enforcement Division  
Common Carrier Bureau  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room 5-A848  
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Colleen Highcamp  
Enforcement Division  
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1231 20<sup>th</sup> Street, N.W.  
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LeShawn Riley