

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

DT 08-130

**In re: Application of MetroCast Cablevision of
New Hampshire, LLC, for Certification as a
Competitive Local Exchange Carrier**

and

DT 09-065

**In re: Application of IDT America, Corp. for
Certification as a Competitive Local Exchange Carrier**

Stipulation and Settlement Agreement

This Stipulation and Settlement Agreement (“Stipulation”) is entered into and made effective as of the 9th day of December, 2010 (“Effective Date”), by and among MetroCast Cablevision Of New Hampshire, LLC (“MetroCast”), IDT America, Corp. (“IDT”) and Union Telephone Company, Inc. (“Union”) (all of the foregoing, collectively, the “Signatories” or, individually, a “Signatory”).

Recitals

On September 19, 2008, MetroCast filed an application with the New Hampshire Public Utilities Commission (“NHPUC”) to amend MetroCast’s existing certification as a competitive local exchange carrier (“CLEC”) in New Hampshire (No. C01-005-07, dated April 11, 2007) to include the service territory of Union. On September 30, 2008, the NHPUC granted MetroCast the authority to operate as a CLEC in the Union service territory. On October 10, 2008, Union filed a motion to rescind MetroCast’s authority to operate in Union’s service territory and requesting rehearing on the ground that MetroCast’s amended CLEC authority was granted

without the notice and hearing required by RSA 374:26. On October 21, 2008, Four NHTA RLECs, together with four other companies,^{*} submitted a letter to the NHPUC supporting Union's motion. On February 6, 2009, the NHPUC entered Order No. 24,939, denying Union's Motion to Rescind and Motion for Rehearing in DT 08-130.

On February 27, 2009, IDT filed an application to amend its existing certification as a CLEC in New Hampshire to include the service territory of Union. On March 3, 2009, the NHPUC granted IDT the authority to operate as a CLEC in the Union service territory. On March 6, 2009, Union filed a motion to rescind IDT's authority to operate in Union's service territory and requesting rehearing on the ground that IDT's amended CLEC authority was granted without the notice and hearing required by RSA 374:26. On May 22, 2009, the NHPUC entered Order No. 24,970, denying Union's Motion to Rescind and Motion for Rehearing in DT 09-065.

Union timely appealed Order Nos. 24,939 and 24,970 to the New Hampshire Supreme Court (the "Court") and the Court thereafter conducted an appellate proceeding in which the Four NHTA RLECs, among others, were permitted to participate as *amici curiae*. By written opinion dated May 20, 2010, the Court reversed Order Nos. 24,939 and 24,970 and held that (1) Union has a statutory right to prior notice and hearing under RSA 374:26 and (2) the NHPUC must determine in the first instance whether federal law preempts the state statutory requirements for notice and hearing.

^{*} The "Four NHTA RLECs" are Bretton Woods Telephone Company, Inc., Dixville Telephone Company, Dunbarton Telephone Company, Inc., and Granite State Telephone, Inc. They were joined in their letter by Hollis Telephone Company, Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company (collectively, the "TDS Telecom Companies"). At the prehearing conference on July 1, 2010, counsel for the Four NHTA RLECs advised the Commission that the TDS Telecom Companies had withdrawn from further participation in these proceedings.

On June 11, 2010, the NHPUC issued Order No. 25,110 scheduling a prehearing conference in these matters. On July 1, 2010, the NHPUC conducted the prehearing conference, at which segTEL petitioned to intervene on the limited question of whether federal law preempts the procedural requirements of the state statute. No party opposed segTEL's intervention.

The positions taken by the respective parties in the prehearing conference reflect divergent views on the question of whether federal law preempts the NHPUC's authority under New Hampshire law to provide notice and hearing when considering a CLEC's application for authority to serve in a rural ILEC's service area in New Hampshire, and on the scope of such a hearing if not preempted by federal law.

Immediately following the prehearing conference, the NHPUC Staff convened a technical session to review the questions presented by the Court's remand order. During the technical session, Union, MetroCast and IDT held preliminary discussions on a framework for settling the issues in dispute in these proceedings and then presented their proposed framework for discussion among the other parties and the NHPUC Staff.

The Signatories have now reached a settlement of their disputes in these proceedings, which they agree will comport with the procedural requirements of RSA 374:26 and will resolve the Court's remand order to the NHPUC. This Agreement sets forth the terms and recommendation of the Signatories regarding NHPUC action in these proceedings. Accordingly, the Signatories recommend dismissal of DT 08-130 and DT 09-065, with prejudice, subject to the following terms and conditions.

Agreed Terms and Conditions

1. Union will seek authority from the NHPUC pursuant to RSA 374:3-b to adopt an alternative regulation plan and for approval of such petition on an expedited basis. In furtherance of Union's petition:

a. MetroCast and IDT:

(i) will have provided to Union, prior to the Effective Date of this Stipulation, a coverage map or other appropriate document or data demonstrating that MetroCast (with or without assistance from IDT) presently passes greater than fifty percent (50%) of the homes and businesses located in each of the telephone exchanges (603-NXXs) served by Union; and

(ii) will provide reasonable, material support to Union, including, without limitation: (A) supporting Union's petition and supporting Union's request for expedited approval of such petition; (B) if necessary, supporting Union's response to requests for intervention in the case; and (C) preparing and submitting admissible evidence, whether by affidavit, testimony, or responses to data requests, together with appropriate coverage maps, service offerings, marketing materials, voice customer counts and other corroborative exhibits and data, to support Union's factual showing in a proceeding to be conducted before the NHPUC under RSA 374:3b.

(iii) will waive its respective opportunity for a hearing with respect to the Union RSA 374:3-b petition.

b. MetroCast and IDT will reasonably participate in and support, at hearing or otherwise, the approval of Union's petition, including, without limitation, through testimony on direct examination and being subject to cross-examination. MetroCast and IDT will also provide

reasonable support to Union with respect to Union's preparation and presentation of oral and written legal arguments that involve evidence prepared by MetroCast or IDT.

2. In accordance with RSA 374:26, Union waives its right to notice and a hearing in DT 08-130 and DT 09-065. Union and its parent company, TDS Telecommunications Corporation, consent to the legal effectiveness, without further hearing, of the NHPUC's grants of CLEC authority to MetroCast and IDT on September 30, 2008, and March 3, 2009, respectively, such waiver and consent to be effective on the date of the NHPUC order approving this Stipulation in its entirety and without material change.

3. Union and its parent company, TDS Telecommunications Corporation, consent to the legal effectiveness of the Arbitrated Interconnection Agreement between IDT America, Corp. and Union Telephone Company, Inc., dated as of November 12, 2009, which was arbitrated by the NHPUC in Docket No. DT 09-048 and entered into pursuant to Order No. 25,002 of October 7, 2009, and made effective by Secretarial Letter dated December 21, 2009, without further hearing before the NHPUC, the New Hampshire Supreme Court, or any other court or agency.

4. The Signatories agree that the terms of this Stipulation are the result of mutual negotiation and compromise by each of the Signatories. The agreements made herein are subject to the condition that this Stipulation shall not be enforceable unless approved in its entirety by the NHPUC. The Signatories further agree not to take any actions in any forum that would reasonably appear to contradict or diverge from the terms set forth in this Stipulation.

5. Each of the Signatories agrees to fully support, through its filings, testimony and other proceedings in NHPUC Dockets DT 08-130 and 09-065, the approval of this Stipulation by

the NHPUC, as representing the good faith negotiated resolution of the issues and concerns raised in said Dockets by the parties thereto.

6. In the event that the NHPUC rejects this Stipulation or adopts this Stipulation with modifications that any Signatory, in its reasonable discretion, determines to be materially adverse to such Signatory, such Signatory may seek reconsideration of the NHPUC decision, and the other Signatories reserve their rights to object to any such motion for reconsideration. None of the Signatories is required to seek or support reconsideration or review of any such decision by the NHPUC. If this Stipulation is rejected in whole or in part by the NHPUC, each Signatory shall have the same rights as each would have had absent this Stipulation.

7. This Stipulation (a) shall be enforceable by the NHPUC upon approval in its entirety by the NHPUC, (b) is entered into for settlement purposes, (c) does not contain or constitute an admission by any Signatory of any factual legal issue or matter, (d) shall not be used as evidence in any proceeding unrelated to the Stipulation or the enforcement of the terms of this Stipulation, and (e) shall not be deemed to bind any Signatory in any unrelated proceeding.

8. The NHPUC's acceptance of this Stipulation in its entirety promotes the orderly and efficient conduct of the proceedings in that the Signatories have resolved issues in dispute that otherwise would be litigated during hearings before the NHPUC. The Signatories assert, on information and belief, that the NHPUC's acceptance of this Stipulation will not impair the rights of any party to these proceedings.

9. The Signatories agree this Stipulation may be signed and executed in counterparts, and regardless of the date signed by any Signatory, this Stipulation is effective as of the date first written above.

EXECUTED as of this 9th day of December, 2010, on behalf of each Signatory by and through its counsel or duly authorized legal representative.

METROCAST CABLEVISION OF NEW HAMPSHIRE, LLC

By: Murtha Cullina LLP,
Its Attorneys

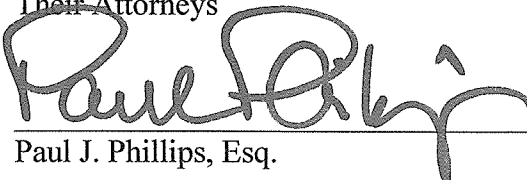
By: _____
Robert J. Munnely, Jr., Esq.

IDT AMERICA, CORP.

By: _____
Thomas Jordan, President

UNION TELEPHONE COMPANY, INC. and its parent
company, TDS TELECOMMUNICATIONS CORPORATION

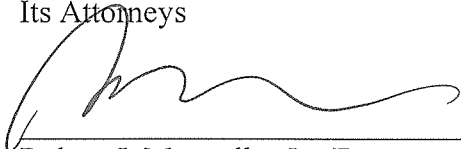
By: Primmer Piper Eggleston & Cramer PC,
~~Their Attorneys~~

By:  _____
Paul J. Phillips, Esq.

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Its Attorneys

By: 
Robert J. Munnelly, Jr., Esq.

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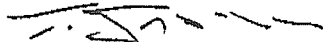
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Robert J. Munnely, Jr., Esq.

IDT AMERICA, CORP.

By:  _____
Thomas Jordan, President 12-9-10

UNION TELEPHONE COMPANY, INC. and its parent
company, TDS TELECOMMUNICATIONS CORPORATION

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Their Attorneys

By: _____
Paul J. Phillips, Esq.