

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: June 3, 2014
AT (OFFICE): NHPUC

FROM:  Michael Ladam, Assistant Director of Telecommunications

SUBJECT: DT 14-160: 2014 Intrastate Access Filings by Competitive Local Exchange Carriers (CLECs)

TO: Commissioners
Debra Howland, Executive Director

Executive Summary: Staff recommends the Commission issue a waiver to competitive carriers from the requirement to provide 30 days' notice to the Commission and public for revisions to intrastate access tariffs, in order to align with tariff filing requirements of the Federal Communications Commission.

Background and Analysis: In its 2011 Report and Order and Further Notice of Proposed Rulemaking regarding the Universal Service Fund and inter-carrier compensation (the Transformation Order, FCC 11-161), the Federal Communications Commission (FCC) established a multi-step timeline for reducing the interstate and intrastate access rates that telephone companies charge one another. Under this timeline Incumbent Local Exchange Carriers (ILECs) must reduce their rates according to various factors. Each Competitive Local Exchange Carrier (CLEC) operating in the same area as an ILEC must then cap its own access rates based on the revised ILEC access rates.

Both ILECs and CLECs file interstate access tariffs with the FCC, and file intrastate access tariffs with the states in which they operate.

The next step in the FCC timeline occurs in July 2014. At this point in the process, intrastate access rates for a given company generally mirror interstate rates. FCC rules typically put federal tariff filings into effect two weeks after filing: for example, ILECs typically file by June 16th with an effective date of July 1. In light of their obligation to cap their rates to the new ILEC rates, CLECs are expected to file up to two weeks after the effective date of the ILEC tariff revisions, for example by July 16th with a resulting effective date no later than July 31st.

The window of two weeks (or less, in some cases) between a federal tariff being filed and taking effect is not consistent with New Hampshire rules, which establish a default 30-day window. Simply extending the effective date of the intrastate tariff is not a practical solution. The Transformation Order required intrastate access rates to mirror interstate rates as of July 2013, so the federal timeline for interstate tariff changes now effectively controls intrastate changes as well. Requiring an earlier filing is also

impractical, since CLECs cannot finalize their tariff rates until they know the ILEC rates have taken effect without challenge.

In Staff's assessment, the most efficient means of addressing the discrepancy in tariff filing timelines is for the Commission to allow CLEC intrastate tariff filings, to be submitted by July 16, 2014, to take effect on the same date as their FCC interstate tariff filings, but no later than July 31, 2014, unless rejected by the Commission before that date. Pursuant to RSA 378:6, IV, the Commission has the discretion to "permit changes to existing tariffs to become effective in fewer than 30 days from the date of filing." Such an approach is in keeping with New Hampshire RSA 378:2, which states that "[i]n the case of public utilities subject to regulation by duly constituted federal authority... the filing of schedules with the commission... shall conform as nearly as may be to the requirements of said federal authority." It is also consistent with RSA 378:17-a, III (a), which requires the Commission to consider corresponding reductions in intrastate access charges "as soon as possible after each significant decrease of interstate access charges by the federal government."

Staff will review each such CLEC tariff filing for compliance with FCC rules and to ensure that it does not include rates, terms, or conditions unrelated to intrastate access, and report to the Commission if any such concerns are present, before the proposed effective date, which will not be later than July 31, 2014.

Staff therefore recommends that the Commission, on its own motion, waive N.H. Code Admin. Rules Puc 1603.07(a), which requires proposed tariff changes to become effective after 30 days' notice to the Commission and the public, unless the Commission orders otherwise, and Puc 1604.05(d), which requires utilities to file written waiver requests pursuant to Puc 201.05 for authority to implement tariff revisions upon less than 30 days' notice to customers. In this instance, the Commission and public have been aware of the required reductions in access rates since November 2011. The recommended rules waivers will serve the public interest, as they will allow compliance with FCC requirements and will not disrupt the orderly and efficient resolution of matters before the Commission.

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Docket #: 14-160-1 Printed: June 11, 2014

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