

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: September 16, 2019
AT (OFFICE): NHPUC

FROM:  Kath Mullholand, Director – Regulatory Innovation and Strategy Division

SUBJECT: DT 19-117, Granite State Telephone, Inc.
Petition to Modify Service Territory Boundaries with Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications - NNE
Staff Recommendation

TO: Commissioners
Debra A. Howland, Executive Director

CC: David K. Wiesner, Director, Legal Division

On July 2, 2019, Granite State Telephone, Inc. (GST) filed a petition to modify service territory boundaries with Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications - NNE (CCI)¹ pursuant to RSA 374:30, II. On August 20, 2019, the Commission issued Order No. 26,288, along with a summary of the order, approving the proposed service territory boundary modification on a *nisi* basis. GST was directed to provide notice of the order to all current customers located in the newly transferred franchise territories and to the relevant Town Clerks, and to publish the order summary in the *Union Leader*. A delayed effective date of September 20, 2019 was specified in the order.

On September 3, 2019, Ronald Morrison, acting *pro se*, filed a document on behalf of the Highland Lake Association and approximately four non-members of the association. The email from Mr. Morrison, a letter to Susan Rand King of GST, and a petition for improved internet/broadband service signed by 88 people, together comprise the “Morrison Filing.” In that filing, Mr. Morrison notified the Commission of a dispute between the Association and GST, and requested that the Commission delay any final decision until “service issues in the specific area are review[ed] and a resolution has been provided.” The letter to Ms. King states that the signatories to the petition are frustrated with their current DSL service, and notes that cell service is unreliable in the area. The letter goes on to describe GST’s current, nearby, fiber installation, an existing service panel located on property belonging to the Highland Lake Association, and the easement that permitted the placement of the service panel. The letter closes with a request that GST commit to installing high-speed internet and to fast-track the installation to be

¹ GST’s petition refers to Northern New England Telephone Operations, LLC d/b/a Consolidated Communications. CCI recently changed its name to Consolidated Communications of Northern New England Company, LLC d/b/a Consolidated Communications-NNE in Docket DT 19-021.

completed by the spring of 2020. Mr. Morrison lives in Stoddard, as do approximately thirty of the individuals on whose behalf Mr. Morrison filed.

On September 4, 2019, Shelly Amari, acting *pro se*, filed a document requesting that the Commission “hold off on any decisions regarding the expansion of Granite State Telephone territory until they can properly manage and address concerns of their internet infrastructure in their current territories.” Ms. Amari lives in Washington, an area not affected by the boundary change. The “Amari Filing” consists of an email which complains about the internet service GST provides, and requests that the Commission hold GST accountable for its current service area.

On September 6, 2019, GST informally notified Staff of a scrivener’s error in the Commission’s order and in the summary of that order. Staff then worked with GST to ensure that the service territory affected would be accurately described. On page 2 of Order No. 26,288, the Commission wrote that “GST requested that its service territory boundary be modified to include the southern part of Highland Lake.” That sentence would more accurately read: “GST requested that its service territory boundary be modified to include *portions of Valley Drive, Beach Road, and East Shore Drive along the eastern and western shores of Highland Lake, as shown on the map submitted with its filing.*”

Likewise, in the second paragraph of the order summary, the Commission wrote that “In Stoddard, the southern part of Highland Lake, which GST has been serving since 1975 or earlier, would formally be transferred to GST.” It would be more accurate to state: “In Stoddard, *portions of Valley Drive, Beach Road, and East Shore Drive along the shores of Highland Lake, which GST has been serving since 1975 or earlier, would formally be transferred to GST.*”

Those changes would reflect a correction to language in the order *nisi* that was overly broad. In Staff’s view, those two changes would not require additional notice, as all of the customers affected by the actual change were included in the notice.

On September 9, 2019, GST responded to the issues raised by the Morrison and Amari Filings, stating that the Morrison and Amari Filings involve the revised franchise boundaries in Stoddard, and not to the changes requested in Chester. GST noted that 31 of the petition signatories live in Stoddard. According to GST, the adjustment to the franchise boundary will reduce regulatory risk and enhance network investments in areas that weren’t previously included in GST’s study area.² While GST reports that it was aware that some customers are dissatisfied with available broadband speeds, it had not heard directly from Mr. Morrison, Ms. Amari, or the Highland Lake Association prior to Staff distributing the filings to GST.

² Each incumbent telephone company in the state has franchise, or service, areas that were defined as exclusive prior to the advent of competition. The FCC designated each rural telephone company’s service area as a “study area,” and froze the boundaries as they existed in 1984. Study areas are relevant to federal subsidy program awards, such as the Connect America Fund and other programs funded by the federal universal service fund.

GST stated that it has been offering broadband internet service to all of the locations covered by the Highland Lake Association in GST's existing and proposed service territory³, has a broadband "point of presence" on Association property. GST described its plans for upgrades to broadband in the area, noting that its plans include the installation of fiber optic cable to customers' homes. The costs for fiber deployment have been spread across multiple years, according to GST, and GST anticipates completing installations on the northwestern shores of Highland Lake in 2020 and installations on the northeastern shores in 2021. GST further stated that it hopes to shorten its current construction schedule if it is successful in getting financing that it has applied for through the U.S. Department of Agriculture. GST maintained that the easement mentioned in the Morrison Filing is for property located in Washington that is not implicated by the boundary change.

Although GST acknowledged the important concerns raised by the customers, it nonetheless pointed out that those concerns are neither germane to this proceeding, nor do they fall within the Commission's authority. According to GST, it has satisfied the conditions of the order *nisi*, and it therefore requested that the Commission deny the customers' requests and issue a final order approving the requested boundary adjustments.

Mr. Morrison replied to GST on September 10, 2019, reiterating in a letter emailed to the Commission that the information GST provided in its response does not match what GST's customer service representatives have told him in the past. Mr. Morrison requested more details and firmer timelines from GST with respect to its planned fiber optic cable installations.

Staff has reviewed the customer filings and GST's response. The Morrison Filing raises issues with respect to the speed and sufficiency of existing DSL internet access service for the GST customers residing along Highland Lake in Washington and Stoddard, and expresses concern that "adding service to the taxed system will only create issues for homeowners already struggling with the service we are paying for." Similarly, the Amari Filing expresses concern about the "current service area." Staff believes that both filers may be under the impression that GST is proposing to add additional potential customers in the Highland Lake area. That is not the case. GST has been responsible for serving all of the customers affected by this change for several decades. The boundary modification approval is designed to ensure that state and federal regulatory records accurately reflect the actual boundaries of GST's franchise territory. Staff believes that this is a necessary step to ensure that federal Connect America Fund monies are awarded appropriately.

With respect to the substance of the Morrison and Amari requests, Staff notes that internet service is defined as jurisdictionally interstate, and the Commission has no

³ In a telephone conversation with Mr. Morrison, Staff confirmed that the Highland Lake Association covers the northwestern portion of Highland Lake, south to the general area near the intersection of Beach Road and Valley Road.

authority to regulate the rates, quality, or provision of internet service. Moreover, DSL service, by its nature, is provided over copper lines that were designed to carry voice communications, and as a result the quality and speed of DSL connectivity varies widely. The Morrison Filing alludes to this fact, and admits that GST personnel work to make repairs in the area frequently. Mr. Morrison expanded on this in his September 10 letter. The issues the customers experience with DSL are typical of such service, particularly when provided in areas where customer density has gradually increased over many years.

To address that known problem, GST engaged in a long-term strategy to replace DSL with fiber-based high-speed internet access throughout its territory. That initiative started several years ago and is nearing completion. GST estimates that the entire Highland Lake area it serves will have access to those products over the coming two years.

While Staff sympathizes with the frustration expressed by the customers regarding the vagaries of DSL service, Staff believes that GST has consistently worked toward relieving those concerns, while necessarily balancing the financial health of the company with forward-looking investments in unregulated technologies. To the extent that the claims regarding the timing of GST's fiber deployment in the Morrison Filing are accurate, Staff notes that GST has agreed in its response that Highland Lake Association members will have fiber service available to them in 2020.

Accordingly, Staff recommends that the Commission:

- 1) issue a correction to the order *nisi* and order summary issued in this docket, without any requirement for further notice or publication; and
- 2) allow the corrected order *nisi* to go into effect on September 20, 2019.

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Service List - Docket Related

Docket# : 19-117

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