

DT 02-120

**BULLSEYE TELECOM, INC.**

**Petition for Authority to Provide  
Local Telecommunications Services**

**Order Nisi Granting Authorization**

**O R D E R N O. 24,062**

**October 4, 2002**

On June 19, 2002, BullsEye Telecom, Inc. (BullsEye) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to RSA 374:22-g. A petition for such authority in New Hampshire is a request for certification as a Competitive Local Exchange Carrier (CLEC), governed by New Hampshire Administrative Rules Chapter Puc 1300. On June 20, 2002, BullsEye filed a motion seeking confidential treatment of certain parts of the documents filed in support of its petition.

BullsEye was originally incorporated on May 9, 1999, under the laws of the State of Michigan as Enterprise Network Solutions, LLC (Enterprise). On April 20, 2000, Enterprise merged with BT Merger Company. The surviving entity changed its name to BullsEye Telecom, Inc.

BullsEye is authorized to provide facilities-based and resold local exchange service as well as long distance service in Illinois, Indiana, Michigan, Ohio and Wisconsin. BullsEye has

applications for same pending in California, Massachusetts, New York and Texas. BullsEye has recently been certified to provide intraLATA toll service in New Hampshire under IXC No. 06-004-02.

Pursuant to Puc Chapter 1300, an applicant's petition for certification as a CLEC shall be granted when the Commission finds that: (1) all information listed in Puc 1304.02 has been provided to the Commission; (2) the applicant meets standards for financial resources, managerial qualifications, and technical competence; and, (3) certification for the particular geographic area requested is in the public good.

Staff has reviewed BullsEye's petition for compliance with these standards. Staff reports that the Company has provided all the information required by Puc 1304.02 and that the information provided supports BullsEye's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b), (e), (f), and (g). Staff further reports that adding BullsEye to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

BullsEye requests a waiver of the surety bond requirement in Puc 1304.02(b). In support, BullsEye submitted a sworn statement that it does not require advance payments or deposits of their customers. Staff recommends granting the waiver.

BullsEye also requests a waiver of 1304.02(a)(6) which requires the filing of U.S.G.S. based map of the areas in which service will be offered. BullsEye avers that it will offer service only in those territories served by Verizon New Hampshire. Maps of that territory are already on file with the Commission. Staff recommends granting the waiver.

We find that BullsEye has satisfied the requirements of Puc 1304.01(a)(1) and (2) and, further, that authorization is in the public good, thus meeting the requirement of Puc 1304.01(a)(3). In making this finding, as directed by RSA 374:22-g we have considered the interests of competition, fairness, economic efficiency, universal service, carrier of last resort, the incumbent's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. Because BullsEye has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

Given that BullsEye will not charge any customer deposits, we find reasonable BullsEye's request for a waiver of the requirement it post a surety bond to cover refunds of deposit. We also find reasonable BullsEye's request for a waiver of the requirement that it file maps delineating the territory in which it intends to provide service. We will grant both requests.

As part of its petition, BullsEye states that it will charge access rates no higher than Verizon New Hampshire's present and future rates for intraLATA switched access. Further, at any point it seeks to exceed Verizon NH's access rates, BullsEye agrees it will first seek Commission approval. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop, in order to avoid any inhibition of intraLATA toll competition in contravention of the Telecommunications Act of 1996.

Pursuant to Puc 1304.02(a)(7), applicants for CLEC certification agree to adhere to all state laws and Commission policies, rules and orders. We take this opportunity to draw attention to two rules in particular. Puc 1306.01(8) and Puc 1306.01(10), respectively, describe Enhanced 911 (E911) and Telecommunications Relay Service (TRS) as part of the minimum basic service that every CLEC must provide. Pursuant to Puc 1306.01(c), authorized CLECs are responsible to collect and properly remit the E911 surcharge, currently set at 42 cents per access line. Pursuant to Puc 1306.01(b), authorized CLECs are also responsible to collect and remit TRS charges, currently set at 8 cents per access line.

As new competitors enter the telecommunications market, we recognize that New Hampshire's 603 area code encounters constantly increasing demand. Accordingly, we will require that

BullsEye request and use numbers responsibly and conservatively, and invite BullsEye to explore alternative mechanisms to use existing numbers as efficiently as possible. In approving this application, we require BullsEye to comply with our orders on number conservation, including Order No. 23,385, issued January 7, 2000, and Order No. 23,392, issued January 27, 2000, as well as further orders issued by the Commission concerning this matter.

Finally, we will address BullsEye's Motion for Protective Order pursuant to RSA 91-A:5,IV, RSA 378:43, and N.H. Admin. Rule Puc 204.06. BullsEye avers that its supporting Financial Statements contain information that is highly confidential and proprietary, disclosure of which would damage the competitive and financial positions of the Company to the detriment of the public interest.

N.H. Admin. Rule Puc 204.06 provides that "the Commission shall grant confidentiality upon its finding that the documents sought to be made confidential are within the exemptions permitted by RSA 91-A:5,IV, or other provisions of law based on the information submitted. . . ." RSA 378:43 provides, in part, that information in support of a filing provided by a telephone utility to the Commission or Commission Staff (Staff), and pertaining to the provision of competitive services, will not be considered public records for purposes of RSA 91-A and shall

be maintained confidentially. In order to obtain such confidential treatment the utility must represent to the Commission that the information is not general public knowledge, not published elsewhere, and where measures have been taken to prevent its dissemination. We find that BullsEye has made the required representations and therefore determine that the financial information at issue here is appropriately kept confidential.

**Based upon the foregoing, it is hereby**

**ORDERED NISI**, that subject to the effective date below, BullsEye's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Verizon New Hampshire, is GRANTED, subject to all relevant Commission rules and orders; and it is

**FURTHER ORDERED**, that BullsEye's request for a waiver of the map filing requirement in Puc 1304.02(a)(6) is GRANTED; and it is

**FURTHER ORDERED**, that BullsEye's request for waiver of the surety bond requirement per Puc 1304.02(b) is hereby GRANTED subject to BullsEye's agreement not to collect any deposit, prepayment or advance payment prior to the provision of service; and it is

**FURTHER ORDERED**, that BullsEye's Motion for Protective Order pursuant to RSA 91-A:5,IV and RSA 378:43 is hereby GRANTED; and it is

**FURTHER ORDERED**, that no less than ten days prior to commencing service, the Petitioner shall file with the Commission a rate schedule including the name description and price of each service, in accordance with N.H. Admin. Rules, Puc 1304.03(b); and it is

**FURTHER ORDERED**, that BullsEye shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than October 14, 2002 and to be documented by affidavit filed with this office on or before October 28, 2002; and it is

**FURTHER ORDERED**, that all persons interested in responding to this Order Nisi shall submit their comments or file a written request for a hearing on this matter before the Commission no later than October 21, 2002; and it is

**FURTHER ORDERED**, that this Order Nisi shall be effective November 1, 2002, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

**FURTHER ORDERED**, that, should the petitioner fail to exercise the authority granted herein within two years of the

date of this order, the authority granted shall be deemed withdrawn, null, and void.

By order of the Public Utilities Commission of New Hampshire this fourth day of October, 2002.

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Thomas B. Getz  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director and Secretary