

December 18, 2008

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**VIA E-MAIL AND
HAND DELIVERY**

Debra A. Howland
Executive Director & Secretary
NH Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301



Re: DRM 08-126 Rulemaking - Revisions to Puc Chapter 400 Rules

Dear Ms. Howland:

This letter and the attachment hereto shall constitute the written comments of the rural telephone company members of the New Hampshire Telephone Association (Granite State Telephone, Inc., Merrimack County Telephone Company, Kearsarge Telephone Company, Wilton Telephone Company, Inc., Hollis Telephone Company, Inc., Dunbarton Telephone Company, Inc., Bretton Woods Telephone Company, Inc., Northland Telephone Company of Maine, Inc. and Dixville Telephone Company, hereinafter referred to as the "NHTA Companies") regarding the proposed change to the Commission's Part 400 rules.

The NHTA Companies understand that this rulemaking is being undertaken by the Commission in response to the changes made during the most recent legislative session to RSA 374:22-f and RSA 374:22-g. Pursuant to Senate Bill 386, which became Laws 2008 Chapter 350, the New Hampshire Legislature repealed RSA 374:22-f and amended RSA 374:22-g. The effect of these changes was to enact a process for competitive carriers to be authorized to provide telecommunications service in the exchanges of incumbent local exchange carriers serving fewer than 25,000 access lines "when the Commission finds and determines that it is consistent with the public good unless prohibited by federal law."

RSA 374:22-g,II prescribes specific factors which the Commission must consider in making its public good determination, including, but not limited to, "fairness; economic efficiency; universal service; carrier of last resort obligations; the incumbent utility's opportunity to realize a reasonable return on its investment; and the recovery from competitive providers of expenses incurred by the incumbent utility to benefit competitive providers, taking into account the proportionate benefit or savings, if any, derived by the incumbent as a result of incurring such expenses."

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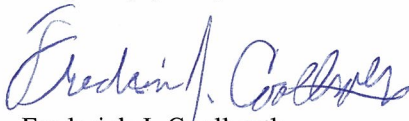
Having reviewed the Commission's initial proposal, the NHTA Companies believe that the proposed revision to Puc 431.01 does not conform to the statute in that it does not provide for any public good finding in determining whether a competitive carrier should be authorized to provide telecommunications services. The rule also is not consistent with RSA 374:26, which requires a hearing on such applications unless interested parties are in agreement.

The NHTA Companies have prepared a revised draft proposal attached hereto as Appendix A that would establish a process that conforms to the statute. It permits the competitive applicant to address the public good factors, provides for notice to the incumbent carrier, allows the incumbent carrier the opportunity to comment on the application and provides for the Commission to make a determination following review of the submittals of whether to commence an adjudicative proceeding.

At the hearing held on December 16, 2008, Comcast commented that, in its judgment, the Commission had already made its public good determination in the adoption of the existing Puc Part 400 rules. The NHTA Companies respectfully submit that no such finding has been made by the Commission reflecting the factors contained in the statute. Moreover, the existing rules regarding registration never applied to rural telephone companies. Therefore, adoption of the Comcast position would result in no public good review at all for rural telephone companies. This approach is simply not in conformity with the statute.

The NHTA Companies believe that their proposal does reflect the statutory requirements and respectfully urge its adoption by the Commission. The NHTA Companies also remain ready to work with the Commission Staff on any refinements of the proposal if so desired.

Very truly yours,



Frederick J. Coolbroth

FJC:kaa

Enclosure

cc: Office of Consumer Advocate
Martin Rothfelder, Esq.
Cameron F. Kerry, Esq.
Kath Mullholand