

**New Hampshire Legal Assistance Supplemental Comments
On Behalf of The Way Home
Concerning Draft Puc 400 Rules
DRM 12-036
Rulemaking, Puc 400, Telephone Service**

New Hampshire Legal Assistance (NHLA) submitted written Comments on behalf of The Way Home dated May 30, 2013 in the above captioned matter. NHLA now submits these Supplemental Comments on behalf of The Way Home. These Supplemental Comments include suggested language revisions for certain Puc 400 rules, which were discussed in The Way Home's May 30th detailed written Comments.

I. The Use of "VOIP Service" or "IP-Enabled Service" By An Incumbent Local Exchange Carrier (ILEC) Does Not Eliminate the ILEC's Obligation To Provide Basic Service.

As discussed in the May 30th Comments of The Way Home (see page 1), the proposed Puc 400 rules should clarify that an ILEC maintains the responsibility to provide basic service regardless of the technology used. The Way Home believes that the proposed Puc 400 rules should also be clarified to provide that a consumer may complain to the Commission if an ILEC fails or refuses to provide basic service. These clarifications to the proposed Puc 400 rules can be accomplished as follows by simply adding to the end of Puc 421.01 the phrase "regardless of technology used," so that Puc 421.01 reads as follows:

"An ILEC must offer basic service as defined in Puc 402.02 throughout its service territory, regardless of the technology used."

II. Complaints Regarding the Provision of Basic Service.

A. All End Users May Make Complaints to the Commission Regarding the Provision of Basic Service by Excepted Local Exchange Carriers.

The last sentence of RSA 365:1-a provides that "Such end users may, however, make complaints to the Commission regarding the provision of basic service by excepted local exchange carriers." As discussed in The Way Home's May 30th Comments (see pp. 1-3), the proper interpretation of this sentence is that all end users can complain to the Commission regarding the provision of basic service, whether basic service is provided on a stand-alone basis, or whether it is provided as part of a larger packet of services or features.

Accordingly, The Way Home recommends the following language be added at the end of Puc 421.03, "whether or not the customer also receives any other services or features," so that Puc 421.03 reads as follows:

“The commission shall accept and resolve complaints from ILEC customers regarding basic service as described in Puc 421.01, whether or not the customer also receives any other services or features.”

B. The Scope of Complaints Regarding the Provision of Basic Service.

As discussed in The Way Home’s Comments of May 30th (see pp. 4-5), the Legislature wanted end users to be able to complain to the Commission about any matter having to do with the provision of basic service, including obtaining, keeping and maintaining basic service. Most everything was deregulated except for basic service.

In order for the Commission to carry out this responsibility to hear and attempt to resolve complaints regarding the provision of basic service, the Commission needs to be able to apply and enforce certain current Chapter 400 and 1200 rules, which are directly relevant to the provision of basic service. These rules are listed in Appendix A to the May 30th Comments of The Way Home (see page 12). Accordingly, the following two changes should be made to the proposed Puc 400 Rules:

1. Add the following language to Puc 401.02 after the words “Puc 1600, tariffs”:

**“Puc 412.15(b)
Puc 412.17(a), (e), (m)
Puc 412.18(a) – (i)
Puc 1202.04
Puc 1202.05
Puc 1202.06
Puc 1202.07
Puc 1202.08
Puc 1202.10
Puc 1202.11
Puc 1202.12
Puc 1202.16
Puc 1203.01(k)
Puc 1203.03(a) – (c), (e), (m), (n)
Puc 1203.07(a) – (c), (f) – (m)
Puc 1203.09(a), (d)
Puc 1203.14(a)
Puc 1203.15(d)
Puc 1203.16
Puc 1203.17(a) – (c), (e), (g).”**

2. Add the following new rule after proposed Puc 421.03:

“Puc 421.04. Scope of basic service complaints. Complaints from ILEC customers regarding basic service in Puc 421.03 shall include any matter within

the applicable rules listed in Puc 401.02, and shall also include the failure or refusal of the ILEC to provide basic service based on the technology used.”

III. Scope of Complaints Regarding Essential Telephone Service.

As discussed in the May 30th Comments of The Way Home (See p. 5), the scope of complaints under proposed Puc 412.10 should be the same as the scope of complaints regarding basic service. In order for the Commission to address and resolve complaints regarding essential telephone service, the Commission needs to be able to apply and enforce certain current Chapter 400 and 1200 rules. Accordingly, the following language should be added to the proposed 400 Rules:

“Puc 412.11. Scope of essential telephone service complaints. Complaints regarding essential telephone service in Puc 412.10 shall include any matter within the applicable rules listed in Puc 401.02.”

IV. Exit Fees With Respect to Voice Service Providers and Essential Telephone Service.

For the reasons discussed in the May 30th Comments of The Way Home (see p. 9), the Commission should bar exit fees imposed by Voice Service Providers (VSPs) as well as by ILECs. Accordingly, The Way Home suggests that the following language be added to Puc 412.05:

“Puc 412.05(d)(8): The VSP does not impose an exit fee on customers.”

V. The Soft Disconnect Process Is Maintained.

For the reasons set forth in the May 30th Comments of The Way Home (see pp. 9-10), the Puc 400 rules should require that FairPoint, or any successor, maintain the current “soft disconnect” process. This process was instituted prior to February 1, 2011 in order to provide dial tone for FairPoint customers to be able to access 911 for at least 90 days following a disconnection of service for non-payment of the bill. Accordingly, the following language should be added, either to Puc 421.02, entitled “ILEC Disconnections of Basic Service,” or elsewhere in Puc 421:

“Puc 421.02(d): FairPoint and any successor shall maintain its soft disconnection process to provide dial tone for access by its residential customers to 911 for a period of at least 90 days following the disconnection of service for non-payment of the bill. The Commission shall resolve complaints concerning compliance with this provision.”

VI. Public Interest Payphone Rules.

As discussed in The Way Home’s May 30th Comments (See pp. 6-9), the Commission continues to have authority and responsibility with respect to public interest payphones under section 276(b) of the federal Telecommunications Act of 1996, and under its own orders in DE 98-048 and other public interest payphone (PIP) dockets. This authority and responsibility was not removed by enactment of SB 48, Ch. 177, 2012 and the implied repeal of RSA 374:22-q.

The proposed Puc 400 Rules do not include current Chapter 406, Public Interest Payphones, and do not include current Puc 405.09, which pertains to public interest payphones. The Way Home believes that the above omitted PIP rules should be included in the proposed Puc 400 rules. This can be accomplished by adding the following language after proposed Puc 411.08:

1. [Recite verbatim current Puc 405.09, Notices and Labeling, in its entirety.]
2. [Recite verbatim current Puc Chapter 406, Public Interest Payphones, in its entirety, with the following exception: Delete the reference to "RSA 374:22-q" in current Puc 406.06, PIP Compensation, so that Puc 406.06 reads as follows: **"The Commission shall compensate VSPs for providing PIPs."**]

VII. Conclusion.

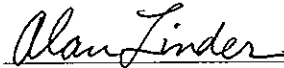
New Hampshire Legal Assistance, on behalf of The Way Home, appreciates the opportunity to submit these Supplemental Comments and language for proposed rule changes to the PUC 400 Rules.

Respectfully submitted,

The Way Home
By Its Attorneys,



Dan Feltes, Esq.
New Hampshire Legal Assistance
117 North State Street
Concord, New Hampshire 03301
(603) 223-9750, ext. 2806
Bar No.: 17689




Alan Linder, Esq.
New Hampshire Legal Assistance
117 North State Street
Concord, New Hampshire 03301
(603) 223-9750, ext. 2802
Bar No.: 1487

Date: June 10, 2013

CERTIFICATION OF SERVICE

I certify that on this date, the Commission and persons on the electronic service list in DRM 12-036 were provided with a copy of these Supplemental Comments electronically.

New Hampshire Legal Assistance



Date: June 10, 2013