

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

**DATE:** January 23, 2018

**AT (OFFICE):** NHPUC

**FROM:**  Kathleen Mullholand, Director, Regulatory Innovation and Strategy

**SUBJECT:** DT 18-003: Airus, Inc. Waiver Request of Puc 413.03(a)(1) and 413.03(a)(3)

**TO:** Commissioners  
Debra Howland, Executive Director

**CC:** David Wiesner, Staff Attorney

### Executive Summary

Airus, Inc. (Airus) seeks blocks of 1,000 telephone numbers in the New Hampshire exchanges of Andover and Milton ML. Two of the Commission's administrative rules require that such a request, normally processed by Staff, include evidence that the company's facilities are physically located in the exchange (Puc 413.03(a)(1)) and that those facilities are owned by the submitter or a specified retail partner (Puc 413.03(a)(3)). Airus asserts that these requirements have been preempted by a 2015 Federal Communications Commission (FCC) order. Airus seeks a waiver of these two rules both for its current numbering request and for all future numbering requests it may make.

Staff believes the circumstances of this request are similar to those when Airus made previous, similar, requests. Staff recommends that the Commission grant waivers of Puc 413.03(a)(1) and 413.03(a)(3) for the current request and that it consider issuing waivers on a prospective basis.

### Background and Analysis

On January 11, 2018, Airus filed a Form T-7: Exchange Eligibility Report accompanied by a letter requesting that the Commission waive administrative rules Puc 413.03(a)(1) and 413.03(a)(3). Airus is following the same process for this new request that it followed in Dockets DT 16-846 and DT 17-156. In these earlier dockets Staff concluded that "FCC Order 15-70 eliminates the basis for Puc 413.03(a)(1) and (3)" and recommended that the Commission grant the waivers. The Commission granted the waivers with respect to those specific requests but declined to issue a prospective waiver that would apply to subsequent requests.

The Airus numbering block request in DT 16-846 was used to establish a Local Routing Number (LRN) for the 603 area code. Its numbering request in DT 17-156 was

for a block in each of four rate centers (Concord, Manchester, Rochester, and Nashua). The current request is for number blocks in Andover and Milton ML in order to provide service to customers in each of those communities.

As required by Form T-7, Airus identifies a customer in each of the two rate centers. Puc 413.03(a)(2) requires providers requesting numbering resources such as Airus to name a local customer as evidence of readiness to serve an exchange. Airus has not requested a waiver of this rule, so future requests for numbering resources would continue to be made using NHPUC Form T-7, and would continue to include exchange and customer information. Staff has concluded that requiring evidence of an existing or prospective customer or customers is both authorized by the FCC in 47 C.F.R. §52.15 and allows the Commission to ensure New Hampshire telephone numbers will not be assigned solely to out-of-state end users.

A prospective waiver of Puc 413.03(a)(1) and (3) would simply allow Staff to process future Airus numbering requests in the normal course of business, while maintaining the Commission's requirement that all number requests demonstrate readiness to serve in the relevant exchange. This approach would achieve greater consistency in the number request process for VoIP providers and other providers of competitive voice services.

Based on the foregoing analysis, Staff recommends that the Commission grant the requested rules waivers both for the current Airus number assignment request and for any future numbering requests made by Airus.

**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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**Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.**

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**FILING INSTRUCTIONS:**

**a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**

DEBRA A HOWLAND  
EXECUTIVE DIRECTOR  
NHPUC  
21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

**b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**

**c) Serve a written copy on each person on the service list not able to receive electronic mail.**