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PUBLIC UTILITIES COMMISSION
21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

January 11, 2019

Re: DT 18-175 Dixville Telephone Company
Petition for Approval to Discontinue Operations
Disclosure

To the Parties:

Prior to becoming a Commissioner in July of 2015, I served as Commission Staff in the role of Director of the Telecommunications Division from January 2002 to March 2015. In that capacity, I was involved in two matters in which Dixville Telephone Company petitioned for relief similar to that presented in the instant docket:

- DT 12-263 Petition of Dixville Telephone Company (Joint Petition with Balsams View, LLC seeking approval of a Transfer of Assets, filed August 24, 2012). This docket was suspended by Secretarial Letter dated December 14, 2012, to accommodate ongoing informational exchanges regarding the potential transfer of assets; and
- DT 14-240 Petition of Dixville Telephone Company (Petition for Approval to Discontinue Operations, filed September 14, 2014). This matter included some confidential material. This docket was suspended by Secretarial Letter dated December 9, 2014, in light of ongoing negotiations for a potential sale transaction.

In my present role as Commissioner, I have carefully considered whether N.H. Code of Admin. Rules, Puc 202.09, *Withdrawal of Presiding Officer or Commissioner*, requires that I withdraw from this matter.

Puc 202.09 *Withdrawal of a Presiding Officer or Commissioner*, states:

- (a) Upon his or her own initiative or upon the motion of any party, a presiding officer or commissioner shall, for good cause, withdraw from any adjudicative proceeding or other matter.
- (b) Good cause shall exist if a presiding officer or commissioner:
 - (1) Has a direct interest in the outcome of a proceeding, including, but not limited to, a financial or family relationship, within the third degree of relationship, with any party;
 - (2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of the case;

- (3) Personally believes that he or she cannot fairly judge the facts of the case;
- (4) Is obligated to withdraw because his or her impartiality might reasonably be questioned; or
- (5) Is otherwise required to withdraw pursuant to applicable law.

(c) Mere knowledge of the issues, the parties, or any witness shall not constitute good cause for withdrawal, nor shall the fact that the presiding officer or commissioner is a customer of a utility that is a party to the proceeding.

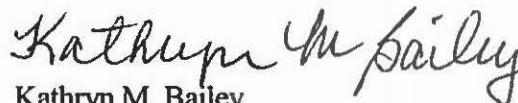
See also Jus 803.02, RSA 541-A:30-a (V) (essentially identical to Puc 202.09); RSA 363:12, VII; RSA 363:19; RSA 500-A:12, II; New Hampshire Code of Judicial Conduct, Rule 38 of the Rules of the Supreme Court of New Hampshire, Canon 2, Rule 2.11, *Disqualification* (cited laws describe similar standards).

I have no direct interest in the outcome of DT 18-175; I have not made statements or engaged in behavior which objectively demonstrates that I have prejudged the facts of this case; and I personally believe I can fairly judge the facts at issue. I have concluded that I can be, and am, impartial. *See* Puc 202.09.

Nonetheless, pursuant to Puc 202.09 (b)(4) and (5) and Canon 2, Rule 2.11, I am disqualified unless disqualification is waived. *See* Canon 2, Rule 2.11 A (5)(b), and C. (“A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned including but not limited to the following circumstances...The judge...served in governmental employment, and in such capacity participated personally and substantially as...a public official concerning the proceeding, or...was a material witness concerning the matter.”)

Accordingly, I hereby disclose my 2012 and 2014 participation in dockets DT 12-263 and DT 14-240. The parties and their lawyers shall consider, outside the presence of Chairman Honigberg, Commissioner Giaimo, me, and Commission Staff, whether to waive my disqualification under Canon 2, Rule 2.11 C. If, following this disclosure, the parties and lawyers agree, without participation by the Commissioners or Commission Staff, that I should not be disqualified, I will participate in the proceeding. *Id.* The parties’ agreement shall be incorporated into the record of the proceedings in DT 18-175. *Id.*

Sincerely,



Kathryn M. Bailey
Commissioner

cc: Service list
Docket file

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

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:

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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.