

STATE OF NEW HAMPSHIRE

COMMISSIONER
Jared S. Chicoine

DEPUTY COMMISSIONER
Christopher J. Ellms, Jr.



TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-3670

Website:
www.energy.nh.gov

DEPARTMENT OF ENERGY
21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

July 7, 2023

Daniel C. Goldner, Chairman
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord, NH 03301

Re: DT 23-060; T-Mobile, USA, Inc.; Petition for Termination of Captioned Telephone Service; Department of Energy Analysis on Jurisdiction

Dear Chairman Goldner:

By Procedural Order dated June 23, 2023 in this matter, the New Hampshire Public Utilities Commission requested that “the New Hampshire Department of Energy (DOE) provide its legal opinion as to whether the Commission is required to review and approve T-Mobile’s petition to terminate CTS [Captioned Telephone Service] in light of the DOE’s evident concurrent jurisdiction over the TRS [Telecommunications Relay Service] program in New Hampshire under RSA 374-22-p and allied statutes.”

The Department’s jurisdiction over relevant telecommunications services is limited and well defined:

Per RSA 374:22-p II, the Department is tasked with ensuring that providers of interstate telephone service participate in outreach programs designed to increase participation of low-income households in any universal service program approved by the Department and statutorily established by the legislature. New Hampshire has no state mandated or state funded universal service program at this time.

Per RSA 374:22-p III, the Department shall seek to ensure that affordable basic telephone services are available across the state at reasonably comparable rates. Generally, there is no longer any rate regulation over telecommunications providers in New Hampshire.

Per RSA 374:22-p IV, the Department would have duties associated with any state universal service fund. As indicated, no such fund has been established in New Hampshire.

Per RSA 374:22-p V, the Department is tasked with monitoring the penetration rate of basic telephone services in the state and, should that rate fall below the national average, commencing an investigation, and taking steps to enhance telephone market penetration rates.

Per RSA 374:22-p VIII, the Department is granted limited jurisdiction over basic telephone service provided by incumbent local exchange carriers (ILECs).

The Department was not granted decisional authority over TRS (which provides functionally equivalent access to telecommunications services for individuals with hearing or speech impairments, allowing them to place and receive telephone calls at no cost to the Relay Services user) or CTS (which is captioned telephone service that provides the hard of hearing community with the ability to speak directly to the called or calling party and listen to that individual speak while simultaneously reading captions of the conversation on the CapTel phone). TRS implementation, T-Mobile's TRS franchise¹, and the provision of CTS were all established through Commission order, not by statute. *See* DE 90-225, *Re Dual Party Relay Service – Telecommunications Relay Service (TRS)*, Order No. 20,236 (1991) (re TRS); DT 04-213, *Sprint Communications Company, Application for Approval of Modifications in its Provision of Telecommunications Relay Service in New Hampshire*, Order No. 24,492 (2005) (re CTS). Further, RSA 374:22-p VIII applies to ILECs, and T-Mobile is not an ILEC (and does not provide basic telephone service in New Hampshire). Accordingly, the Department does not have jurisdiction to decide T-Mobile's petition concerning CTS.

Although the Department does not have jurisdiction to decide the matter, the Department has a position on T-Mobile's request. If, after reviewing the matter with the community currently being served by T-Mobile, the PUC finds that analog CTS remains a necessary service, then the PUC could consider requiring T-Mobile to continue to provide it. Alternatively, the PUC could consider granting a franchise to a company that still provides analog CTS and pay that company out of the TRS fund. The Commission may need to increase the rates telephone companies pay in to the TRS fund to accomplish this.

Consistent with the Commission's current practices this letter is being filed only in electronic form.

Sincerely,

/s/ *Paul B. Dexter*

Paul B. Dexter
Senior Hearings Examiner/Legal Director

cc: Service List

¹ T-Mobile is a successor company to Sprint Communications Company.

ClerksOffice@puc.nh.gov

andrew.brenneman@t-mobile.com

dbogan@daypitney.com

Energy-Litigation@energy.nh.gov

michelle.lama@t-mobile.com

ocalitigation@oca.nh.gov