

DT 02-012

EXCEL TELECOMMUNICATIONS, INC.

**Petition for Authority to Provide
Local Telecommunications Services**

Order Nisi Granting Authorization

O R D E R N O. 23,990

June 7, 2002

On January 28, 2002, Excel Telecommunications, Inc. (Excel) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to the policy goals set by the New Hampshire Legislature in RSA 374:22-g, effective July 23, 1995. The grant of such authority in New Hampshire is governed by New Hampshire Administrative Rules, Chapter Puc 1300.

Excel was granted Competitive Local Exchange Carrier certification in Docket No. DE 96-167 by Order No. 22,594 dated May 13, 1997. However, because Excel was unable to commence offering local exchange service within two years from the date of certification, the certification became forfeit under Puc 1304.03(a). The petitioner now intends to offer those services and therefore seeks recertification. Excel's business plan for New Hampshire currently entails providing

service to residential customers. Later, if economic conditions warrant, Excel may consider offering service to business customers.

Pursuant to Puc Chapter 1300, an applicant's petition for certification as a Competitive Local Exchange Carrier (CLEC) shall be granted when the Commission finds that (1) all information listed in Puc 1304.02 has been provided to the Commission; (2) the applicant meets standards for financial resources, managerial qualifications, and technical competence; and, (3) certification for the particular geographic area requested is in the public good.

The Commission Staff (Staff) has reviewed Excel's petition for compliance with the relevant standards. Staff reports that the company has provided all the information required by Puc 1304.02 and that the information provided supports Excel's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b), (e), (f), and (g). Staff further reports that adding Excel to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

Excel, in its petition, states that it may require deposits or advance payments from its New Hampshire customers.

Excel has filed proof of a bond in the amount of \$50,000, to satisfy the requirement in Puc 1304.02(b) for a surety bond to cover refunds of all customer deposits. Advance payments are defined by Excel as those associated with special setup or installations. Excel does not plan to provide prepaid telecommunications services where an allotment of telecommunications service is purchased prior to use.

Excel requests a waiver of Puc 1304.02(a)(6) which requires the filing of U.S.G.S. based map of the areas in which service will be offered. Excel avers that it will offer service only in those territories served by Verizon New Hampshire and that maps of Verizon's territory are already on file with the Commission. Staff recommends granting the requested waiver.

We find that Excel has satisfied the requirements of Puc 1304.01(a)(1) and (2) and, further, that authorization is in the public good, thus meeting the requirement of Puc 1304.01(a)(3). In making this finding, as directed by RSA 374:22-g we have considered the interests of competition, fairness, economic efficiency, universal service, carrier of last resort, the incumbent's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. This finding is further

supported by the Telecommunications Act of 1996 (TAct). Because Excel has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

We find Excel's request for a waiver of Puc 1304.02(a)(6), requiring the filing of the applicant's intended service territory, is reasonable.

As part of its petition, Excel avers it will charge access rates no higher than Verizon New Hampshire's present and future rates for intraLATA switched access. At any point Excel seeks to exceed Verizon New Hampshire's access rates it will first seek Commission review. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop, in order to avoid any inhibition of intraLATA toll competition in contravention of the Telecommunications Act of 1996.

We remind Excel of its responsibility, pursuant to Puc 1306.01, to collect 8 cents per access line to support the Telephone Relay Service (TRS), to submit that amount to the TRS trustee, and to ensure that local calls placed through TRS are not billed as toll calls.

Excel is also reminded of its responsibility to ensure access to the Enhanced 911 system from each access line and the requirement that it collect the E911 surcharge of 42

cents per access line and to submit same to the appropriate authority pursuant to RSA 106:H.

We note that as new competitors enter the market, constantly increasing pressure is put on the 603 area code, so long as today's number assignment process remains in effect. Accordingly, we require that Excel to request and use numbers responsibly and conservatively and to join in exploring alternative mechanisms to use existing numbers as efficiently as possible. As evidenced by our recent orders, we have serious concern for the maintenance and viability of the 603 area code and the North American Numbering Plan as a whole. In approving this petition, we require Excel to comply with our orders on number resource optimization, including but not limited to Order No. 23,385 issued January 7, 2000, and Order No. 23,392 issued January 27, 2000.

Based upon the foregoing, it is hereby

ORDERED NISI, that Excel's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Verizon New Hampshire, is GRANTED, subject to all relevant Commission rules and orders; and it is

FURTHER ORDERED, that Excel's request for a waiver of Puc 1304.02(a)(6) is GRANTED: and it is

FURTHER ORDERED, that no less than ten days prior to commencing service, the Petitioner shall file with the Commission a rate schedule including the name description and price of each service, in accordance with N.H. Admin. Rules, Puc 1304.03(b); and it is

FURTHER ORDERED, that Excel shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than June 17, 2002 and to be documented by affidavit filed with this office on or before June 28, 2002; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi shall submit their comments or file a written request for a hearing on this matter before the Commission no later than June 24, 2002; and it is

FURTHER ORDERED, that this Order Nisi shall be effective July 5, 2002, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that, should the petitioner fail to exercise the authority granted herein within two years of the date of this order, the authority granted shall be deemed withdrawn, null, and void.

By order of the Public Utilities Commission of New
Hampshire this seventh day of June, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary