

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 08-130

METROCAST CABLEVISION OF NEW HAMPSHIRE

Application for Certification as a Competitive Local Exchange Carrier

DT 09-065

IDT AMERICA CORP.

Application for Certification as a Competitive Local Exchange Carrier

Order Scheduling Prehearing Conference

O R D E R N O. 25,110

June 11, 2010

On May 20, 2010, the New Hampshire Supreme Court (Court) issued its opinion in Appeal of Union Telephone Company d/b/a Union Communications (Union). Union appealed the Commission's grant of permission for MetroCast Cablevision of New Hampshire, LLC (MetroCast) to provide telephone services in Union's service territory. The Court held that RSA 374:22-g and RSA 374:26 require a notice and hearing before granting a competitive local exchange carrier (CLEC) such as MetroCast a franchise to provide telephone services. The Court remanded the question of whether federal law preempts such a state notice and hearing requirement, observing that resolving the preemption question "may entail additional fact finding."

In acting on this remand from the Court, the Commission must develop a record sufficient to resolve the federal preemption question. All interested parties should attend the pre-hearing conference scheduled by this order prepared to identify all legal issues and factual

matters, if any, that they believe are pertinent to this remand and to discuss their position on appropriate procedures.

The filing raises, inter alia, issues related to the process required by RSA 374:22, RSA 374:22-g and RSA 374:26 and the question of whether federal telecommunications law, including 47 U.S.C. §§ 151 et seq., preempts or imposes any restrictions on the hearing and notice requirements of New Hampshire statutes governing CLEC entry into ILEC service territories. Each party has the right to have an attorney represent them at his or her own expense. Parties previously granted intervention need not file a petition to intervene.

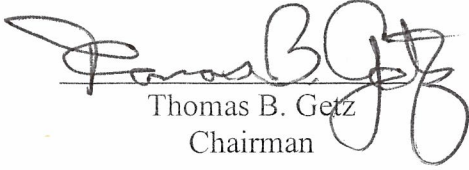
Based upon the foregoing, it is hereby

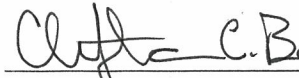
ORDERED, that a Prehearing Conference, pursuant to N.H. Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on July 1, 2010 at 10:30 a.m., at which each party will provide a preliminary statement of its position with regard to the Court's remand order and any of the issues set forth in N.H. Admin. Rule Puc 203.15 shall be considered; and it is

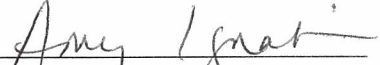
FURTHER ORDERED, that, immediately following the Prehearing Conference, the Staff of the Commission, the parties and any Intervenors hold a Technical Session to review the questions presented by the Court's remand order; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.12, the Executive Director shall notify all persons desiring to be heard at this hearing by posting a copy of this Order on the Commission's website and by sending an electronic copy of this Order to all CLECs and ILECs authorized to provide telecommunications in the state.


By order of the Public Utilities Commission of New Hampshire this eleventh day of June,
2010.


Thomas B. Getz
Chairman


Clinton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director



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FILING INSTRUCTIONS: PURSUANT TO N.H. ADMIN RULE PUC 203.02(a),

WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:

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