

Attachment A

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To the Initial Brief of the
Joint Petitioners (DT 08-028)

Procedural History

On February 19, 2008, the Joint Petitioners petitioned the Commission for the authority to block the termination of all traffic carried by GNAPs to exchanges served by the TDS Companies on the public-switched telephone network ("PSTN") in New Hampshire. The Joint Petition alleged that GNAPs, acting as an intermediate carrier, sent terminating traffic to the exchanges of the Joint Petitioners in New Hampshire, but that GNAPs was conducting its business in an unfair and deceptive manner so as to avoid paying the access charges to which the Joint Petitioners are lawfully entitled under their intrastate and interstate access tariffs. On March 3, 2008, the Commission's Executive Director forwarded a copy of the Joint Petition to GNAPs with instructions that GNAPs file a response by March 13, 2008. On March 19, 2008, GNAPs filed an Answer denying the material allegations in the Joint Petition; GNAPs concurrently filed a motion to accept its late-filed Answer.

On April 14, 2008, the Joint Petitioners filed a Response to the GNAPs Answer in accordance with N.H. Admin Rule Puc 204.04(a), expressing their dissatisfaction with the GNAPs Answer; the Joint Petitioners did not oppose GNAPs' motion to accept its late-filed answer. Also on April 14, 2008, Staff filed a recommendation that the Commission schedule a prehearing conference and technical session to develop a procedural schedule and address any administrative issues appropriate for resolution at the onset of this proceeding.

On April 22, 2008, the Commission issued an Order of Notice opening the present investigation and scheduling a Prehearing Conference before the Commission, to be followed by a Technical Session conducted by the Commission's Staff. The Order of Notice set a deadline of May 14, 2008 for any petitions to intervene.

On May 8, 2008, a petition to intervene was filed jointly on behalf of Union Telephone Company, Inc. and Freedom Ring Communications, LLC d/b/a BayRing Communications (jointly, the "Union Intervenors"). On May 9, 2008, a petition to intervene was filed on behalf of Granite State Telephone, Inc., Dunbarton Telephone Company, Inc., Northland Telephone Company of Maine, Inc., Bretton Woods Telephone Company, Inc., and Dixville Telephone Company (jointly, the "NHTA Intervenors").

On May 14, 2008, the Commission convened a Prehearing Conference, at which the Commission granted intervention to the Union Intervenors and the NHTA Intervenors. Immediately following the Prehearing Conference, the Staff conducted a Technical Session, at which the Parties agreed to the following expedited schedule:

May 23, 2008	Discovery served on and by all parties
June 6, 2008	Data responses due from all parties
June 13, 2008	Follow-up discovery and any additional, relevant discovery served on and by all parties
June 27, 2008	Follow-up and additional data responses due from all parties
July 9, 2008	Technical Session/Stipulation of Facts
August 1, 2008	Briefs

As part of the expedited schedule, the Parties also agreed to limit discovery in this matter.¹

The parties further agreed to the following initial fact: that Global NAPs transfers all traffic at issue in this proceeding to FairPoint-NNE in traditional time division multiplexing ("TDM") format and FairPoint-NNE terminates that traffic to the TDS Companies in the same way that FairPoint-NNE terminates a traditional voice call, i.e., through meet-point billing with each of the TDS Companies.

The Staff reported the parties' agreement to the Commission on May 15, 2008, and on May 20, 2008, the Commission's Executive Director and Secretary issued a letter adopting the expedited schedule and discovery guidelines as agreed to by the Parties.

On May 28, 2008, a Petition to Intervene was filed on behalf of Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE ("FairPoint-NNE"). By Secretarial letter dated June 13, 2008, the Commission granted intervention to FairPoint-NNE.

The Parties propounded their respective Initial Data Requests on May 23, 2008. On June 6, 2008, in accordance with the Schedule, the Joint Petitioners responded to GNAPs' and the Staff's data requests, and GNAPs responded to the Joint Petitioners' and the NHTA Intervenors' data requests. GNAPs did not respond to the data requests propounded by the Staff and the Union Intervenors until June 9, 2008. The Parties propounded their respective Follow-Up Data Requests on June 13, 2008, and received Responses thereto on June 27, 2008.

¹ Each Party was allowed to propound a set of not more than ten (10) Initial Data Requests, followed by a set of not more than fifteen (15) Follow-Up Data Requests.

On July 9, 2008, the Staff convened a Technical Session, at which all Parties attended and participated. At the Technical Session, the Parties jointly developed and agreed to a Stipulation of Facts, which the Staff offered to prepare in final form and circulate thereafter to the Parties for technical review and correction of any errors, in advance of execution by the Parties and submission to the Commission. One of the elements of the agreed-upon Stipulation of Facts was Fact #25 ("Parties agree that all discovery responses and exhibits attached thereto shall be admitted into evidence without further hearing."). The Parties also agreed that the Joint Petitioners could submit Supplemental Data Requests to GNAPs.

On July 10, 2008, the Staff circulated the written Stipulation of Facts as agreed to by the Parties. That same day, the Joint Petitioners propounded their Supplemental Data Requests to GNAPs.

On July 14, 2008, the Union Companies advised the Parties that, based on a review of its internal records, the Union Companies could not agree with one of the items in the Stipulation of Facts and asked that it be deleted from the stipulation. The item, listed as Fact #9 in the Stipulation of Facts, read in its entirety as follows: "Global NAPs does not originate traffic." On July 15, 2008, the Joint Petitioners advised the Parties that they concurred with the Union Companies' request, based on a review of their records (which were part of the discovery record in this case). That same day, counsel for Staff notified the Parties that Fact #9 had been deleted from the Stipulation based on a lack of consensus among the Parties for its inclusion.

By letter filed on July 16, 2008, GNAPs requested an evidentiary hearing based on the "factual dispute" arising from the deletion of Fact #9 from the Stipulation of Facts. That same day, GNAPs also provided responses to the Joint Petitioner's Supplemental Data Requests. By letter filed on July 18, 2008, the Joint Petitioners opposed the GNAPs letter-request for an evidentiary hearing. By letter filed on July 21, 2008, the NHTA Intervenors joined in the Joint Petitioners' opposition to the GNAPs request for an evidentiary hearing.

On July 18, 2008, segTEL, Inc. ("segTEL") filed a letter (dated July 21, 2008) to the Commission requesting permission to intervene in this matter. The same day, the Joint Petitioners filed a letter with the Commission opposing segTEL's request to intervene.

On July 24, 2008, GNAPs filed a motion formalizing its request for an evidentiary hearing. On July 29, 2008, the Joint Petitioners, by responsive pleading, formally opposed the

GNAPs motion. By responsive pleading also filed on July 29, 2008, the NHTA Intervenor's opposed the GNAPs motion.

By secretarial letter dated July 30, 2008, the Commission suspended the briefing schedule and directed GNAPs to file, on or before August 4, 2008, specific objections to each of the items in the Stipulation of facts and to describe any evidence supporting each objection; a failure to object to a stipulated fact would be deemed an admission of that fact.

On August 4, 2008, GNAPs filed an "Objection to Stipulation of Facts" with the Commission in which GNAPs requested certain changes to the Stipulation of Facts and in particular asked to add several new proposed facts to the Stipulation. On August 6, 2008, the Joint Petitioners filed a response asking the Commission to adopt the Stipulation of Facts as amended by the Staff on July 15, 2008; the Joint Petitioner also filed a motion to compel, asking the Commission to order GNAPs to produce responses to certain data requests to which GNAPs had earlier objected. Also on August 6, 2008, FairPoint-NNE responded to the GNAPs objections by seeking enforcement of the Stipulation of Facts as issued by the Staff.

By Order No. 24,894, issued on September 17, 2008, the Commission ruled that GNAPs had joined with the other Parties in agreeing to the Stipulation of Facts, that the former Fact #9 was properly stricken by the Staff upon objection by several of the Parties, and that, in its Objections, GNAPs had not demonstrated a basis on which to alter its earlier agreement to the Stipulation of Facts. The Commission also denied GNAPs' request to include additional proposals in the Stipulation of Facts. The Commission granted, in part, the TDS Companies' Motion to Compel and ordered GNAPs to produce certain Data Responses on or before September 22, 2008. The Commission asked the Parties to submit Initial Briefs on or before September 29, 2008 and Reply Briefs on or before October 6, 2008. Finally, the Commission granted segTEL's petition to intervene.

On September 23, 2008, the Joint Petitioners, having not received the compelled Data Responses from GNAPs that had been due the previous day, asked GNAPs to provide its compelled Data Responses immediately. Later that same day, GNAPs provided a set of incomplete Data Responses with a representation that additional information would be provided "under separate cover." To date, no further information has been provided.