

statute or rule pursuant to which its motion for this remedy was made. TDS has not stated a reason, and there is none, for the Commission to venture into new territory in this case.

There is no reason for the Commission to take such an extraordinary step here, because TDS has no basis for its supposed insecurity. Although TDS would like to paint this case as one of a flagrant disregard for its unquestionable and rightful demand for payment, this case merely involves resolution of a claim by TDS that Global NAPs is liable for intrastate access charges for ESP communications transported by Global NAPs in New Hampshire. Global NAPs disputes this claim based upon a fair, and Global NAPs believes, correct reading of federal law. Global NAPs does not believe that not submitting to the payment of an illegal charge constitutes reason for TDS's insecurity or reason for the Commission to require a bond. TDS's only other stated basis for its supposed insecurity is that Global NAPs is subject to orders of payment in other states. TDS fails to consider appeal of those orders or that other states have correctly understood federal law regarding intercarrier compensation and decided in TDS's favor. TDS does not even claim that the orders it refers to have caused or could cause Global NAPs to cease operations, declare bankruptcy, or to make assignments for the benefit of creditors. In short, the orders referred to by TDS do not provide any objective basis to require the posting of security.

Lastly TDS's extraordinary request is overreaching because it is based upon a "judgment" amount that it is unlikely to be "awarded." TDS's request is based upon all of Global NAPs's transport, when it is clear from the stipulated facts in this case that Global NAPs's transport is ESP traffic that either originates from enhanced service providers or is delivered to internet service providers or e-fax service providers – none of which ESP traffic is subject to local access charges. TDS has made no effort to separate out state jurisdictional

charges – if any can be shown to exist; consequently, its “judgment” amount is grossly overstated.

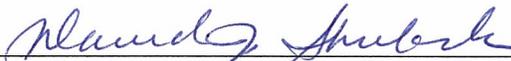
Based upon the foregoing, Global NAPs, Inc. requests that the Commission deny TDS’s motion to require the posting of a performance bond.

Respectfully submitted

GLOBAL NAPs, INC.

By It’s Attorneys,
BROWN, OLSON & GOULD PC

Date: January 29, 2009

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused a copy of the foregoing to be served on the attached service list by E-mail.

Date: January 29, 2009



David J. Shulock, Esq.