

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

**DT 08-028**

**ORDER OF NOTICE**

On February 19, 2008, Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company, Inc., referred to jointly as the TDS Telecom Companies (TDS), filed with the Commission a petition for authority to block the termination of all traffic carried by Global NAPs, Inc. (GNAPs) to TDS exchanges on the public switched telephone network (PSTN) in New Hampshire.

In its petition, TDS alleges that GNAPs is not paying to terminate its access traffic in TDS territories and owes TDS \$192,644.25 for engaging in this activity from February 2003 to January 2008. TDS now turns to the Commission to resolve this issue. In its petition, TDS asks the Commission to grant it authority to block any further termination of GNAPs traffic in TDS exchanges, to provide other such relief as the Commission may deem appropriate, and to schedule this matter for hearing and resolution.

On March 3, 2008, a copy of TDS's complaint was forwarded to GNAPs by the Commission's Executive Director with instructions that GNAPs file a response by March 13, 2008.

On March 19, 2008, GNAPs filed a motion to accept its late-filed answer to the TDS complaint. In its motion, GNAPs asserted, among other things, that the traffic in question is exclusively interstate in nature, that traffic originating in TDS territory was in-bound to Internet Service Providers ("ISPs") and that traffic terminating in TDS territory is from enhanced service providers. GNAPs denied the allegations and most of the facts set forth in TDS's complaint,

asserting that the New Hampshire Commission's jurisdiction is limited to local and intrastate traffic, while the traffic at issue, to ISPs and from enhanced service providers, is subject to the exclusive and sole jurisdiction of the Federal Communications Commission (FCC).

On April 14, 2008, TDS filed a response to GNAPs's answer. In its response, TDS denies the affirmative defenses asserted by GNAPs and contends, among other things, that the GNAPs traffic at issue originates within New Hampshire and terminates to the exchanges of Kearsarge Telephone Company in New Hampshire and thus is indisputably intrastate in nature and subject to intrastate access charges under TDS's intrastate access tariff. TDS also states that GNAPs traffic shows a variety of originating and terminating telephone numbers, which is typical of voice traffic, compared to the single or limited number of end-user customers that would be typical of ISP-bound traffic. TDS argues that records show that a number of different local exchange carriers (LECs) serve the originating telephone numbers in question. According to TDS, the multiplicity of originating LECs indicates that it is unlikely that the subject traffic originates in Internet Protocol (IP) format or is otherwise ESP traffic. Therefore, TDS states that GNAPs's contention that traffic originating from TDS is inbound ISP traffic and traffic terminating to TDS is ESP traffic is without factual or legal support. Also on April 14, 2008, Staff filed a recommendation that the Commission schedule a pre-hearing conference and technical session to develop a procedural schedule and address any administrative issues appropriate for resolution at the onset of this proceeding.

Based on TDS's complaint and GNAP's answer, the Commission has determined that further investigation is merited. The filings raise, inter alia, issues related to (1) the specific type of traffic involved in TDS's petition; (2) whether the Commission has jurisdiction to resolve this matter pursuant to RSA 365:1 and RSA 374:3; (3) the extent to which GNAPs uses TDS's

facilities to provide the services at issue; (4) whether there should be an agreement in place between the parties; (5) whether TDS should be authorized to block traffic from GNAPs; (6) whether TDS is entitled to compensation for termination of the traffic at issue, and, if so, to what extent; and (7) what other recourse may be available to TDS, if any.

Each party has the right to have an attorney represent them at their own expense.

**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 May 14, 2008 at 1:30 p.m., at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Admin. Rule Puc 203.15 shall be considered; and it is

**FURTHER ORDERED**, that GNAPs is a mandatory party; and it is

**FURTHER ORDERED**, that, immediately following the Prehearing Conference, TDS, GNAPs, the Staff of the Commission and any Intervenors hold a Technical Session to review the petition and allow TDS to provide any amendments or updates to its filing; and it is

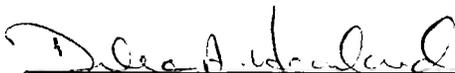
**FURTHER ORDERED**, that pursuant to N.H. Admin. Rules Puc 203.12, TDS shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than April 28, 2008, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before May 14, 2008; and it is

**FURTHER ORDERED**, that pursuant to N.H. Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to TDS and the Office of the Consumer Advocate on or before May

9, 2008, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.17 and RSA 541-A:32,I(b); and it is

**FURTHER ORDERED**, that any party objecting to a Petition to Intervene make said Objection on or before May 14, 2008.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of April, 2008.

  
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Debra A. Howland  
Executive Director & Secretary

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability, should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.