

STATE OF NEW HAMPSHIRE

Inter-Department Communication

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DATE: April 25, 2018**AT (OFFICE):** NHPUC

FROM: Kath Mullholand, Director, Regulatory Innovation and Strategy

SUBJECT: 2018 Intrastate Access Filings by Registered Telephone Utilities
TO: Commissioners
Debra Howland, Executive Director
CC: David Wiesner, Staff Attorney

Staff recommends that a docket be opened for the purpose of accepting for filing all excepted local exchange carrier (ELEC) intrastate access filings made in compliance with the Federal Communications Commission (FCC) Report and Order and Further Notice of Proposed Rulemaking regarding the Universal Service Fund and Inter-Carrier Compensation, in WC Docket Nos. 10-90, etc., FCC Release No 11-161, issued on November 18, 2011 (the Transformation Order). This will include filings made by incumbent local exchange carriers (ILECs) that are ELECs. Further, due to significant statutory differences between the FCC and New Hampshire tariff filing time frames, Staff recommends that the Commission issue a waiver from the requirement to provide 30 days' notice to the Commission and public for revisions to intrastate access tariffs. The Commission issued such a waiver in previous years and the same factors make it advisable this year.

In the Transformation Order, the FCC established a multi-step timeline for reducing the interstate and intrastate access rates that telephone companies charge one another. Under this timeline, ILECs must reduce their rates according to various factors. Competitive carriers operating in the same area as an ILEC must then cap their own access rates based on the revised ILEC access rates. Both ILECs and competitive carriers file interstate access tariffs with the FCC, and then file intrastate access tariffs with the states in which they operate.

For New Hampshire telecommunications carriers, the next step in the FCC timeline occurs in July 2018. Carriers that own the tandem switch in an area – such as Northern New England Telephone Operations, LLC, d/b/a Consolidated Communications (Consolidated) – have rate changes mandated to take effect on July 1, 2018, and intrastate access rates for all carriers in New Hampshire are expected to remain unchanged thereafter. This year, for carriers who serve only in those areas where Consolidated is the incumbent, the new rates are required to be zero, commonly known as “bill and keep.” FCC rules typically put federal tariff filings into effect two weeks after filing; for example, ILECs typically file by June 16th with an effective date of July 1. In light of their obligation to cap their rates to the new ILEC rates, competitive carriers are expected

to file up to two weeks after the effective date of the ILEC tariff revisions, for example, by July 16th with a resulting effective date no later than July 31st.

The window of two weeks (or less, in some cases) between a federal tariff being filed and taking effect is not consistent with New Hampshire rules, which establish a 30-day window for notice. Simply extending the effective date of the intrastate tariff is not a practical solution. The Transformation Order required intrastate access rates to mirror interstate rates as of July 2013, so the federal timeline for interstate tariff changes now effectively controls intrastate changes as well. Requiring an earlier filing is also impractical, since competitive carriers serving areas other than those served by Consolidated cannot finalize their tariff rates until they know the ILEC rates have taken effect without challenge.

In Staff's assessment, the most efficient means of addressing the discrepancy in tariff filing timelines is for the Commission to allow competitive carrier intrastate tariff filings submitted on or before July 15, 2018, to take effect no later than July 31, 2018, unless rejected by the Commission before that date. Pursuant to RSA 378:6, IV, the Commission has the discretion to "permit changes to existing tariffs to become effective in fewer than 30 days from the date of filing." Such an approach is in keeping with New Hampshire RSA 378:2, which states that "[i]n the case of public utilities subject to regulation by duly constituted federal authority... the filing of schedules with the commission... shall conform as nearly as may be to the requirements of said federal authority." Staff will review each such submittal for compliance with FCC rules and to ensure that it does not include rates, terms, or conditions unrelated to intrastate access, and report to the Commission if any such concerns arise, before the July 31 effective date.

Staff therefore recommends that the Commission, on its own motion, waive N.H. Code Admin. Rules Puc 1603.07(a)(1), which requires proposed tariff changes to become effective after 30 days' notice to the Commission and the public, unless the Commission orders otherwise, and Puc 1604.05(d), which requires utilities to file written waiver requests pursuant to Puc 201.05 for authority to implement tariff revisions upon less than 30 days' notice to customers. In this instance, the Commission and public have been aware of the required reductions in access rates since November 2011. The recommended rules waivers will serve the public interest, as they will allow compliance with FCC requirements and will not disrupt the orderly and efficient resolution of matters before the Commission.

Further, Staff requests that a single docket be opened to accept for filing all ELEC intrastate access tariff filings.