

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

DT 09-048

ORDER OF NOTICE

On March 11, 2009, IDT America, Corp. (IDT) filed with the New Hampshire Public Utilities Commission (Commission) a petition for arbitration of rates, terms and conditions of interconnection with Union Telephone Company (Union) pursuant to 47 U.S.C. section 251(a) and (b). According to the filing, IDT submitted a request to Union for interconnection pursuant to 47 U.S.C. sections 251(a) and (b) in a letter dated October 8, 2008. In a letter to IDT dated February 13, 2009, Union raised concerns about IDT's authorization to provide telecommunications service within Union's service area and declined to negotiate an interconnection agreement. Based on Union's alleged refusal to negotiate, IDT has submitted its proposed interconnection agreement in its entirety as a set of unresolved issues for arbitration.

The Commission has jurisdiction over the petition for arbitration pursuant to section 252 of the Telecommunications Act of 1996 (Telecom Act). Section 252 sets forth specific deadlines for each step in an arbitration proceeding, including the filing of a petition and conclusion of the arbitration. IDT filed its petition on March 11, 2009, asserting that it complied with the provisions of section 252 and that arbitration in this proceeding must be concluded by July 8, 2009. On April 7, 2009, Union filed a response to IDT's petition claiming, among other things, that interconnection negotiations will not be initiated before a company has received proper authority from the state public utility commission to begin operations in the territory of the incumbent. Union concluded, therefore, that 47 U.S.C. 252(b)(1) is not applicable.

The filing raises, *inter alia*, issues about certain rates, terms and conditions in an agreement governing interconnection pursuant to 47 U.S.C. § 251(a) and (b) between IDT and Union and whether this arbitration is subject to 47 U.S.C. § 252(b)(1). A technical session will be held following the prehearing conference. Staff and the parties are directed to propose an expedited procedural schedule that would permit a Commission order by no later than July 8, 2009.

The Telecom Act contains strict time limits on the arbitration process and allows liberal discretion for state commissions to define the process. In Order No. 22,236, the Commission delineated a general schedule applying to arbitrations. In the same order, the Commission reserved the right to consolidate proceedings, change the schedule, limit intervention, and take any other steps necessary to insure that the deadlines of the Telecom Act are met. The Commission also indicated that, to fulfill its obligations, the Commission would hire such consultants as required. The Commission shall appoint an arbitrator in this proceeding. The arbitrator shall act as the Commission's agent and shall adhere to the same high standards of conduct as are required of Commissioners by RSA 363:12.

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 7, 2009 at 10:00 a.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, immediately following the Prehearing Conference, IDT, Union, the Staff of the Commission and any Intervenors hold a Technical Session to establish a proposed discovery and procedural schedule; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.12, IDT shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than April 27, 2009, 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 7, 2009; 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 IDT, Union and the Office of the Consumer Advocate on or before May 4, 2009, 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 7, 2009.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of April, 2009.

Debra A. Howland
Executive Director

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.