

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

DT 09-044

ORDER OF NOTICE

On March 6, 2009, the rural carriers of the New Hampshire Telephone Association (the RLECS)¹ filed with the New Hampshire Public Utilities Commission (Commission) a petition under RSA 365:5 for the Commission to conduct an inquiry into the appropriate regulatory treatment of internet protocol (IP) enabled voice service in New Hampshire.

The RLECs describe their rate of return regulation as more burdensome than unregulated operations, and are therefore concerned at the prospect of competitors offering similar services on an unregulated basis. According to the filing, affiliates of Comcast Corporation (collectively Comcast) are offering a fixed voice service using internet protocol in New Hampshire, under the name Comcast Digital Voice (CDV). The RLECs assert that Comcast claims CDV is an information service that is free from any regulation by this Commission. The RLECs contend that CDV is not an information service. Instead they argue that CDV meets the definition of a public utility under RSA 362:2 and should therefore be regulated and be subject to intraLATA access charges.

. The filing raises, *inter alia*, issues related to whether fixed voice over internet protocol (VoIP) service in general, or CDV in particular, constitutes conveyance of a telephone message within the context of RSA 362:2, whether the Comcast affiliate providing such service

¹ The RLECs include: Bretton Woods Telephone Company, Inc.; Dixville Telephone Company; Dunbarton Telephone Company, Inc.; Granite State Telephone, Inc.; Hollis Telephone Company, Inc.; Kearsarge Telephone Company; Merrimack County Telephone Company; and Wilton Telephone Company, Inc.

is a public utility, and the extent to which federal law preempts New Hampshire law with regard to VoIP services.

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 June 24, 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, the RLECs, Comcast, the Staff of the Commission and any Intervenors hold a Technical Session to review the petition and allow the RLECs to provide any amendments or updates to its filing; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.12, the RLECs shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than June 3, 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 June 24, 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 the RLECs, Comcast, Staff and the Office of the Consumer Advocate on or before June 19, 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 June 24, 2009.

By order of the Public Utilities Commission of New Hampshire this sixth day of May, 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.