

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

---

|  |   |
|--|---|
| <b>Comcast Phone of New Hampshire, LLC Request</b> | ) |
| <b>Request for Authority to Provide</b>            | ) |
| <b>Local Telecommunications Services</b>           | ) |

---

**DT 08-013**

**REPLY OF COMCAST PHONE OF NEW HAMPSHIRE, LLC  
TO OBJECTION BY NEW HAMPSHIRE TELEPHONE ASSOCIATION  
TO ORDER *NISI* GRANTING APPLICATION AND  
REQUEST FOR HEARING**

Comcast Phone of New Hampshire, LLC (“Comcast Phone”) respectfully submits that the Objection By New Hampshire Telephone Association To Order *Nisi* Granting Application And Request For Hearing (filed April 21, 2008) (“the NHTA Objection”) does not present grounds for delaying the effect of the Commission’s Order No. 24,843 – and thereby delay the entry of competition in territories of the TDS Companies. For these reasons, the NHTA request to convene an adjudicatory hearing should be denied.

NHTA is represented by the same counsel as the TDS Companies, which comprise four of the nine NHTA member companies. Comcast Phone filed its Objection of Comcast Phone Of New Hampshire, LLC to Motion by TDS Companies For Suspension of Order No. 24,843 Pending Resolution of Docket DT 07-027 or, Alternatively, for a Hearing (“Comcast Objection to TDS Motion to Suspend”) on April 28, 2008. That pleading noted that “[t]he NHTA filing includes the same suggestions [as the TDS Motion to Suspend] at greater length and expands them ....”<sup>1</sup>

---

<sup>1</sup> Comcast Objection to TDS Motion to Suspend at p. 4.

Comcast Phone therefore incorporates by reference the Comcast Objection to TDS Motion to Suspend into this response, and attaches it for convenience.

The NHTA Objection goes into greater detail about the issues the NHTA and TDS believe the Commission must resolve before competitive entry can be permitted in the territories of the TDS Companies and, presumably, of any other rural ILEC. Even more than the issues alleged by the TDS Companies, the array of issues suggested by the NHTA far exceeds any entry, tariff, or service regulation applicable to CLECs under New Hampshire law or regulations. An adjudicatory proceeding on such issues would embroil the Commission in extensive and unjustified regulatory litigation designed to create an entry barrier that impedes federal and state policy promoting telecommunications competition.

Order No. 24,843 expressly anticipates that the services Comcast Phone offers pursuant to a grant of authority may vary from those described with its CLEC-10 registration; the order provides that Comcast Phone “shall file, ten days prior to commencing service, a rate schedule including the name, description and price of each service, with the Commission in accordance with N.H. Code Admin. Rules Puc 431.06.” Order No. 24,843 at p. 4. As discussed in Comcast’s Objection to the TDS Motion to Suspend, therefore, there is no need to resolve such issues in the context of CLEC registration under Puc 431.01, which was adopted to streamline the competitive entry process. Rather, such issues are more properly considered in the context of a concrete complaint, interconnection arbitration, or rural exemption waiver proceeding.

In fact, since Order No. 24,843 was issued, the TDS Companies have agreed to enter into interconnection negotiations with Comcast Phone without waiving their rural

exemption. And, on April 21, 2008, notwithstanding the questions that the NHTA suggests are raised by proceedings in Vermont,<sup>2</sup> the TDS Companies completed execution of an interconnection agreement with Comcast Phone's Vermont counterpart that can be expected to provide a template for an interconnection agreement in New Hampshire. The TDS Companies thus appear to be heeding the Commission's encouragement to reduce market barriers,<sup>3</sup> and there is good reason to believe the parties can resolve issues without the need for the Commission to use its time and resources.

Accordingly, no hearing is warranted,<sup>4</sup> and the Commission should deny the request of the NHTA (and of its members the TDS Companies) to commence an adjudicatory hearing.

Respectfully submitted,



Cameron F. Kerry (BBO #269660)  
Mintz, Levin, Cohn, Ferris, Glovsky  
and Popeo, P.C.  
One Financial Center  
Boston, Massachusetts 02111  
Tel. (617) 542-6000  
Fax (617) 542-2241

---

<sup>2</sup> NHTA Objection at pp. 5-6, ¶¶ 10-13.

<sup>3</sup> Kearsarge Telephone Co., Wilton Telephone Co., Hollis Telephone Co. And Merrimack County Telephone Co. Petitions for Approval of Alternative Form of Regulation, DT 07-027, Order No. 24,852, Order Regarding Joint Settlement Agreement at p. 30 (April 28, 2008).

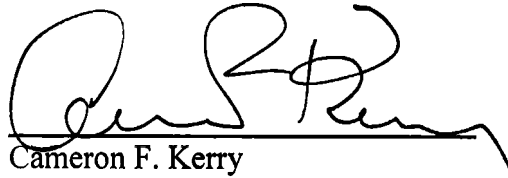
<sup>4</sup> See, e.g., *West Epping Water Company*, DW 01-054, Order No. 24,330, Response of Paul R. Wright on Order No. 24,309 Order Ruling on Request of Paul R. Wright (Jan. 29, 2001) (denying a hearing request because the requestor had "not raised any issues that cause us to reconsider our decision"); *Public Service Company of New Hampshire, Special Contract No. NHPUC-98 with Freudenburg-NOK General Partnership*, DR 94-252, Order No. 23, 627, Order Denying Hearing (Jan. 29, 2001) (denying a hearing request because the Commission found "no basis, either required by law or by the facts at issue, to hold a hearing on this matter"); *Birchview by the Saco, Inc. Investigation into Quality of Service and Future of Water Supply and Distribution System*, Order No. 23,235, Order Denying Request for Hearing Regarding Rates (June 15, 1999).

Brian A. Rankin  
Vice President and, Deputy General Counsel  
Chief Telephony Counsel,  
Comcast Phone of New Hampshire LLC  
One Comcast Center  
Philadelphia, Pennsylvania 19103  
Tel. (215) 286-7325  
Fax (215) 286-5039

Attorneys for Comcast Phone of  
New Hampshire, LLC

**CERTIFICATE OF SERVICE**

I, Cameron F. Kerry, hereby certify that I have this 1<sup>st</sup> day of May, 2008, served the foregoing document, Reply Of Comcast Phone Of New Hampshire, LLC to Objection by New Hampshire Telephone Association to Order *Nisi* Granting Application And Request for Hearing; by email, on all parties of record:



Cameron F. Kerry

May 1, 2008