



IDT America, Corp.  
520 Broad Street  
Newark, New Jersey 07102-3111

May 6, 2009

**VIA ELECTRONIC DELIVERY**

Debra A. Howland, Executive Director  
New Hampshire Public Utility Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429

**Re: Docket No. 09-048**

Dear Director Howland:



On behalf of IDT America, Corp. (“IDT”), please accept this letter in response to the Commission’s April 21, 2009 Order of Notice (“Order”) in the above-listed docket. IDT appreciates the Commission’s decision to deny Union Telephone Company’s (“Union”) Motions to Dismiss and/or Stay the proceeding. As we move toward the May 7<sup>th</sup> hearing, IDT believes it is valuable to provide Union and the Commission with its thoughts on those issues that can be presented and discussed at the Public Hearing and, of equal importance, those issues which should not be discussed in great detail because their resolution is unlikely and/or impossible given the particular facts.

IDT wants to make its general position clear: IDT believes its initial request for negotiation was valid and that its request for arbitration is valid because Union acted in bad faith by declining to respond and then, ultimately, refusing to negotiate an interconnection agreement. IDT also asserts that its certificate to provide local service in Union’s ILEC territory is lawful and effective. Moreover, we assert that even if the Commission finds inadequacies with the granting of IDT’s expansion certificate into Union’s ILEC territory, this would not relieve Union of its obligation to engage IDT in negotiations for an interconnection agreement and the concerns raised by Union about the wasted time and effort incurred as a result of frivolous requests for interconnection are evidence of little more than that it is red herring season in New Hampshire. IDT looks forward to meeting with the Commission on May 7<sup>th</sup>, quickly resolving the issues Union insists on raising and then bringing competition to Union’s incumbent, monopoly territory.

With this being said, these are IDT’s positions on what it perceives to be the relevant, contested issues.

- (1) IDT had the right to request an interconnection agreement when it did (*i.e.*, prior to IDT having its existing certificate to provide local exchange service expanded to include the Union ILEC territory).
- (2) Because IDT's request was valid, the "interconnection timeline" applies, contrary to Union's assertion, and that IDT has all rights in accordance with an arbitrated interconnection agreement.
- (3) IDT's second request for an interconnection agreement does not have any implication on the rights it asserted under its first request but if IDT's first request is found to be invalid, then IDT should be able to assert its rights to negotiation of an interconnection agreement consistent with the second request.
- (4) To the degree certain issues regarding the granting of IDT's certificate are comparable to those before the New Hampshire Supreme Court as the issues pertain to the granting of Metrocast Cablevision of New Hampshire's ("Metrocast") certification, it is reasonable for the Commission to place on "hold" the Commission allow the resolution of those issues be until resolution by the Supreme Court. However, the rights of IDT should not be suspended by the Commission pending the outcome of any questions pending before the Supreme Court.
- (5) Issues raised by Union regarding the granting of IDT's certificate that are *not* comparable to those before the New Hampshire Supreme Court in the Metrocast matter should be resolved in the present docket.
- (6) It is not in the public interest to delay IDT's entrance into the Union ILEC territory until the issues regarding IDT's certification and/or request for interconnection being challenged by Union (either directly in this docket or indirectly at the Supreme Court) have been resolved by the highest possible trier of fact.
- (7) IDT is a common carrier and, as such, able to avail itself of all the rights and obligations thereunder.

Pursuant to Commission rules, this letter is being electronically filed at [Executive.Director@puc.nh.gov](mailto:Executive.Director@puc.nh.gov). In addition, an original and seven (7) copies of this letter are also being filed via overnight mail. Please date stamp and return the enclosed extra copy of this filing. Please contact me at (973) 438-4854 or [Carl.Billek@corp.idt.net](mailto:Carl.Billek@corp.idt.net) if you have any questions.

Sincerely,

**/s/ Carl Billek**

Carl Billek  
IDT America, Corp.

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