

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DT 08-028

Hollis Telephone Co., Inc., Kearsarge Telephone Co.,
Merrimack County Telephone Co. and Wilton Telephone Co.
Joint Petition for Authority to Block the Termination
Of Traffic from Global NAPs

**Motion of Granite State Telephone, Inc. for Authority
to Disconnect Global NAPs, Inc. and its Affiliates**

1. Granite State Telephone, Inc., intervenor in the above-docketed proceeding (“Granite State”), hereby moves for authority, effective June 16, 2010, to disconnect and block the termination of all traffic carried by Global NAPs, Inc. and any of its affiliates (“GNAPS”) that interconnect with Granite State in the State of New Hampshire. In support of its Motion, Granite State states as follows:
2. Granite State is a New Hampshire corporation and public utility operating subject to the jurisdiction of the New Hampshire Public Utilities Commission (“Commission”) and is authorized to serve as an incumbent local exchange carrier (“ILEC”) in New Hampshire as that term is defined in 47 U.S.C. § 251(h), 47 C.F.R. § 51.5, and New Hampshire Admin. Rule Puc 402.23.
3. Granite State was granted leave to intervene in this proceeding on May 14, 2008.
4. Granite State provides local exchange services in its service areas in New Hampshire, including interconnection services and exchange access services, pursuant to tariffs on file with the Commission and the Federal Communications Commission (“FCC”). In particular, Granite State provides intrastate and interstate access service in New Hampshire

pursuant to its access tariffs N.H. P.U.C. No. 7 (intrastate) and National Exchange Carrier Association Tariff F.C.C. No. 5 (interstate). Rates for these access services are contained in the pertinent sheets from those tariffs, attached as Exhibit 1.

5. From April 2005 through March 2010, inclusive, and continuing thereafter to the date of this Motion, GNAPS has sent terminating traffic to exchanges served by Granite State in New Hampshire.

6. Analysis of the call detail records applicable to this traffic establishes that traffic was delivered by GNAPS to Granite State for termination to customers in the Chester, Hillsboro Upper Village, Washington and Weare exchanges.

7. The traffic from GNAPS originates from various rate centers not within the respective local calling areas of Granite State's customers. Accordingly, the traffic terminated by GNAPS in exchanges served by Granite State in New Hampshire is toll service that is subject to applicable intrastate or interstate access charges.

8. Granite State's records also establish that the aforementioned traffic includes both intrastate and interstate traffic minutes for which GNAPS has failed to pay the applicable access charges set forth in Granite State's interstate and intrastate tariffs.

9. As of March 24, 2010, Granite State is due \$204,619.66 for terminating access charges applicable to the traffic terminated by GNAPS in exchanges served by Granite State in New Hampshire. A summary of those charges is attached hereto as Exhibit 2.

10. Since May 27, 2008, Granite State has attempted to resolve this billing dispute with GNAPS concerning GNAPS' non-payment of applicable access charges, to no avail. Copies of relevant correspondence from Granite State are attached hereto as Exhibit 3. GNAPS never responded to any of Granite State's letters.

11. In November 10, 2009, the Commission issued its Order No. 25,043 in which it ruled in favor of the original petitioners, the TDS Companies, under a factual scenario that is essentially identical to the dispute between Granite State and GNAPS, supported by record evidence substantially similar to that provided in the Exhibits to this Motion. In particular, the Commission found, among other things, that:

- GNAPS failed in its burden of proving its arguments against the TDS Companies' claims;
- The TDS Companies demonstrated through record evidence that GNAPS' traffic travels across TDS facilities to access TDS end-users;
- Despite more than ample opportunity, GNAPS offered no evidence to refute the TDS Companies' argument that the intrastate traffic in question is identified and treated as exchange access traffic subject to intrastate tariffed access charges;
- GNAPS made no payments under either tariff for the access the TDS Companies provided to terminate GNAPS traffic; and
- Puc 412.19 permits a carrier to disconnect service to a non-residential customer, where that customer has violated a provision of the utility's approved tariff.

12. Accordingly, the Commission ordered that "absent payment in full of outstanding invoices or a mutually acceptable payment arrangement between Global NAPs [sic] and the TDS Companies, then the TDS Companies are entitled to disconnect service to Global NAPs [sic] in accordance with procedures described in Order 25,043."¹

13. Furthermore, the Commission found it to be "in the best interest of New Hampshire ratepayers and telecommunications carriers alike" to authorize the intervenors in this proceeding to also pursue disconnection of service to GNAPS within the State of New

¹ See Order 25,043 at 24-25.

Hampshire and file motions accordingly.²

14. GNAPS, on December 2, 2009, filed a motion to stay and to reconsider or rehear the Order (Motion for Rehearing). On December 15, 2009, the Commission issued a secretarial letter suspending its Order pursuant to RSA 541:5 pending further consideration of the issues raised in GNAPS' motion.

15. On April 2, 2010, the Commission issued Order 25,088 denying the GNAPS Motion for Rehearing and providing that "[t]he suspension of our Order [25,043] is no longer in effect, and all terms apply with the exception of new dates imposed regarding payment to TDS and notice to Global NAPS' customers."³

16. On April 29, 2010, the United States Court of Appeals for the First Circuit issued its decision affirming a judgment in favor of Verizon New England, Inc. against Global NAPs, Inc., its affiliates and Frank Gangi in the amount of \$57,716,714. Accordingly, it is highly unlikely that GNAPS will be able to pay the accrued access charges.⁴

WHEREFORE, pursuant to the now operational terms of Order 25,043, Granite State respectfully requests that the Commission grant this motion and

- 1) authorize Granite State to disconnect and block the termination of all traffic carried by Global NAPs, Inc. and any of its affiliates that interconnect with Granite State in the State of New Hampshire, effective June 12, 2010;
- 2) award attorney fees to Granite State in the event of GNAPS' non-compliance with the directives of Order 25,043 and any other orders in this proceeding; and
- 3) provide such other relief as the Commission deems necessary and appropriate.

² Order 25,043 at 25.

³ Order 25,088 at 4.

⁴ Global NAPs, Inc. v. Verizon New England Inc., Case Nos. 09-1308, 09-1309, Slip Op. (1st Cir. Apr. 29, 2010).

Respectfully submitted,

Granite State Telephone, Inc.
By its Attorneys,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

Dated: May 7, 2010

By: 

Frederick J. Coolbroth, Esq.

Patrick C. McHugh, Esq.

Harry N. Malone, Esq.

43 North Main Street

Concord, NH 03301

(603) 226-1000

pmchugh@devinemillimet.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was forwarded this day to the parties by electronic mail.

Dated: May 7, 2010

By: _____

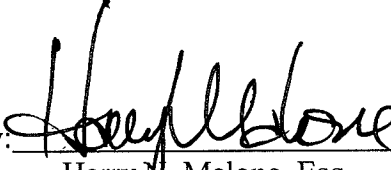

Harry N. Malone, Esq.

EXHIBIT 1

Excerpts from Access Tariffs

ACCESS TARIFF

REGULATIONS, RATES AND CHARGES

Applying to the provision of access services
for connection to intrastate communications facilities
for intrastate customers within the
operating territory of

GRANITE STATE TELEPHONE, INC.

in the state of

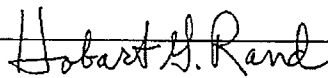
New Hampshire

as provided herein.

Access services are provided by means of wire, fiber optics,
radio or a combination thereof.

Issued: September 3, 1993

Effective: October 1, 1993



Hobart G. Rand
President

ACCESS SERVICE

17. Rates and Charges

17.1 Common Line Access Service

17.1.1 Carrier Common Line Access Service Rate

Regulations concerning Carrier Common Line Access are set forth in Section 3. preceding.

- Originating Per Access Minute \$0.008437 (R)
- Terminating Per Access Minute \$0.014391 (R)

Issued: May 20, 1997

Issued by: Hobart G. Rand

Effective: June 20, 1997

97-098

Title: President

ACCESS TARIFF

17. Rates and Charges (Cont'd)

17.2 Switched Access Service

17.2.1 Nonrecurring Charges

	<u>Rate</u>	<u>Tariff Section Reference</u>
(A) <u>Local Transport - Installation Per Line or Trunk</u>	\$196.00	6.4.1(B)(1)

17.2.2 Local Transport

-	Local Transport Termination Per Access Minute	\$0.005263	6.1.3(A)
-	Local Transport Facility Per Access Minute Per Mile	\$0.000742	6.1.3(A)

Network Blocking Per Blocked Call

Applies to FGD only	\$0.0359	6.8.6
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Issued: May 1, 1994

Issued by:

Hobart G. Rand
Hobart G. Rand
President

Effective: July 1, 1994

Authorized by NHPUC Order No. 20,916 in DE 90-002, dated August 2, 1993

ACCESS SERVICE

17. Rates and Charges (Continued)

17.2 Switched Access Service (Continued)

17.2.3 End Office

(A) Local Switching

Local Switching Feature Groups A, B, C and D

- Originating Per Access Minute \$0.034091 (R)
- Terminating Per Access Minute \$0.062591

(B) Local Switching

- ILP Implementation Charge per \$0.001919
Originating minute of use for the
Period June 2, 1997 through
June 1, 1999.

Issued June 7, 2006

Issued by: Susan Rand King

Effective: July 1, 2006

Susan Rand King
Title: President

Issued in compliance with NHPUC Order No. 24,621 Dated May 12, 2006 in Docket No. DT 05-133

NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.

TARIFF F.C.C. NO. 5

Original Title Page 1

Cancels Tariff F.C.C. No. 1 in its Entirety

ACCESS SERVICE

Regulations, Rates and Charges
applying to the provision of Access Services
within a Local Access and Transport Area (LATA) or
equivalent Market Area for connection to interstate
communications facilities for Interstate Customers within
the operating territories of the Issuing Carriers listed
on Title Pages 2 through 68.

All material contained herein is new.

This tariff is filed (1) in compliance with the Federal Communications Commission's Report and Order in CC Docket 86-467, adopted May 14, 1987 and released June 29, 1987 and (2) under the authority of the Commission's Special Permission Nos. 88-192 and 88-200.

The name, title and street address of this tariff's Issuing Officer are located on the bottom of Page 1, the Check Sheet.

Access Services are provided by means of wire, fiber optics, radio or any other suitable technology or a combination thereof.

Issued: April 29, 1988

Effective: June 13, 1988

ACCESS SERVICE

17. Rates and Charges (Cont'd)17.2 Switched Access Service (Cont'd)17.2.3 End Office(A) Local SwitchingRatePremium

Per Access Minute

- Rate Band 1	\$0.009913	(I)
- Rate Band 2	\$0.013218	
- Rate Band 3	\$0.016522	
- Rate Band 4	\$0.019827	
- Rate Band 5	\$0.023132	
- Rate Band 6	\$0.026436	
- Rate Band 7	\$0.029741	
- Rate Band 8	\$0.033045	(I)

Refer to the Local Switching (LS) Rate Band Table in Section 17.5.1, following, to view company specific rate band assignments.

Non-Premium

Per Access Minute

- Rate Band 1	\$0.004461	(I)
- Rate Band 2	\$0.005948	
- Rate Band 3	\$0.007435	
- Rate Band 4	\$0.008922	
- Rate Band 5	\$0.010409	
- Rate Band 6	\$0.011896	
- Rate Band 7	\$0.013383	
- Rate Band 8	\$0.014870	(I)

Refer to the Local Switching (LS) Rate Band Table in Section 17.5.1, following, to view company specific rate band assignments.

(B) Information Surcharge

- Premium Per 100 Access Minutes	\$0.0321	(I)
- Non-Premium Per 100 Access Minutes	\$0.0144	(I)

Transmittal No. 1245

Issued: June 16, 2009

Effective: July 1, 2009

Director - Access Tariffs
80 So. Jefferson Road, Whippany, NJ 07981

ACCESS SERVICE

17. Rates and Charges (Cont'd)17.2 Switched Access Service (Cont'd)17.2.2 Local Transport (Cont'd)RateTariff
Section
ReferencePremium Access (Cont'd)

- <u>Tandem Switched Transport</u>		6.1.3(A) (3)
- <u>Tandem Switched Facility</u>		
Per Access Minute Per Mile		
Rate Band 1	\$0.000170	(I)
Rate Band 2	\$0.000203	(I)
- <u>Tandem Switched Termination</u>		
Per Access Minute Per		
Termination		
Rate Band 1	\$0.000883	(I)
Rate Band 2	\$0.001055	(I)
- <u>Tandem Switching</u>		
Per Access Minute Per		
Tandem		
Rate Band 1	\$0.002297	(I)
Rate Band 2	\$0.002744	(I)
<u>Network Blocking Per Blocked Call</u>		6.8.6
Applied to FGD only	\$0.0139	(I)

Refer to the Tandem Switched Transport Rate Band Table in Section 17.5.1 following, to view company specific rate band assignments.

Transmittal No. 1245

Issued: June 16, 2009

Effective: July 1, 2009

Director - Access Tariffs
80 So. Jefferson Road, Whippany, NJ 07981

EXHIBIT 2

Summary of Charges

Granite State Telephone, Inc.
Global NAPS CABS Billing Summary

BAN 0039FGD4975

<u>Invoice Number</u>	<u>Billing Period</u>	<u>Due Date</u>	<u>InterState</u>	<u>IntraState</u>	<u>Billing Period</u> <u>Total</u>	<u>Accumulated</u> <u>Balance Due</u>
0039080523FGD4975	04/25-05/24/06	6/14/2008	802.74	396.60	1,199.34	1,199.34
0039080523FGD4975	05/25-06/25/06	6/14/2008	708.46	424.96	1,133.42	2,332.76
0039080523FGD4975	06/26-06/30/06	6/14/2008	139.06	70.96	210.02	2,542.78
0039080523FGD4975	07/01-07/24/06	6/14/2008	709.09	340.60	1,049.69	3,592.47
0039080523FGD4975	07/25-08/24/06	6/14/2008	1,058.72	476.39	1,535.11	5,127.58
0039080523FGD4975	08/25-09/24/06	6/14/2008	1,059.40	468.65	1,528.05	6,655.63
0039080523FGD4975	09/25-10/24/06	6/14/2008	1,366.41	451.24	1,817.65	8,473.28
0039080523FGD4975	10/25-11/26/06	6/14/2008	1,721.39	1,081.42	2,802.81	11,276.09
0039080523FGD4975	11/27-12/25/06	6/14/2008	921.66	431.80	1,353.46	12,629.55
0039080523FGD4975	12/26/06-01/24/07	6/14/2008	1,057.86	524.90	1,582.76	14,212.31
0039080523FGD4975	01/25-02/25/07	6/14/2008	1,371.65	741.56	2,113.21	16,325.52
0039080523FGD4975	02/26-03/25/07	6/14/2008	1,079.69	585.29	1,664.98	17,990.50
0039080523FGD4975	03/26-04/24/07	6/14/2008	1,569.43	758.63	2,328.06	20,318.56
0039080523FGD4975	04/25-05/24/07	6/14/2008	1,817.16	663.00	2,480.16	22,798.72
0039080523FGD4975	05/25-06/24/07	6/14/2008	1,848.70	482.05	2,330.75	25,129.47
0039080523FGD4975	06/25-06/29/07	6/14/2008	290.56	102.97	393.53	25,523.00
0039080523FGD4975	06/30-07/24/07	6/14/2008	2,391.23	514.83	2,906.06	28,429.06
0039080523FGD4975	07/25-08/26/07	6/14/2008	3,636.95	905.65	4,542.60	32,971.66
0039080523FGD4975	08/27-09/24/07	6/14/2008	5,879.78	2,210.92	8,090.70	41,062.36
0039080523FGD4975	09/25-10/24/07	6/14/2008	3,076.33	1,765.03	4,841.36	45,903.72
0039080523FGD4975	10/25-11/25/07	6/14/2008	3,061.80	596.39	3,658.19	49,561.91
0039080523FGD4975	11/26-12/25/07	6/14/2008	4,580.69	737.96	5,318.65	54,880.56
0039080523FGD4975	12/26-01/24/07	6/14/2008	6,666.57	1,288.09	7,954.66	62,835.22
0039080523FGD4975	01/25-02/24/08	6/14/2008	3,818.75	807.03	4,625.78	67,461.00
0039080523FGD4975	02/25-03/24/08	6/14/2008	2,658.02	1,149.65	3,807.67	71,268.67
0039080523FGD4975	03/25-04/24/08	6/14/2008	4,446.86	1,622.87	6,069.73	77,338.40
0039080529FGD4975	04/25-05/26/08	6/28/2008	2,397.56	1,390.66	3,788.22	81,126.62
0039080627FGD4975	05/27-06/24/08	7/27/2008	2,845.59	1,692.17	4,537.76	85,664.38
0039080729FGD4975	06/25-07/24/08	8/28/2008	4,625.91	1,638.64	6,264.55	91,928.93
0039080827FGD4975	07/25-08/24/08	9/26/2008	4,239.64	1,789.10	6,028.74	97,957.67
0039080929FGD4975	08/25-09/24/08	10/29/2008	4,354.49	1,478.61	5,833.10	103,790.77
0039081029FGD4975	09/25-10/26/08	11/28/2008	3,217.52	1,080.51	4,298.03	108,088.80
0039081126FGD4975	10/27-11/25/08	12/26/2008	2,339.38	1,033.99	3,373.37	111,462.17
0039081230FGD4975	11/26-12/25/08	1/29/2009	2,434.32	1,097.59	3,531.91	114,994.08
0039090128FGD4975	12/26-1/25/09	2/27/2009	2,602.52	1,151.60	3,754.12	118,748.20
0039090227FGD4975	01/26-02/24/09	3/29/2009	2,177.41	1,534.46	3,711.87	122,460.07
0039090327FGD4975	02/25-03/24/09	4/26/2009	1,999.10	2,808.55	4,807.65	127,267.72
0039090429FGD4975	03/25-04/26/09	5/29/2009	1,854.94	2,557.67	4,412.61	131,680.33
0039090528FGD4975	04/27-05/25/09	6/27/2009	2,262.01	5,650.90	7,912.91	139,593.24
0039090629FGD4975	05/26-06/24/09	7/29/2009	2,553.95	5,064.05	7,618.00	147,211.24
0039090729FGD4975	06/25-07/26/09	8/28/2009	2,400.18	4,309.68	6,709.86	153,921.10
0039090827FGD4975	7/27-8/24/09	9/26/2009	2,158.84	5,181.30	7,340.14	161,261.24
0039090929FGD4975	8/25-09/24/09	10/29/2009	2,191.68	4,005.26	6,196.94	167,458.18
0039091028FGD4975	9/25-10/25/09	11/27/2009	2,212.42	3,857.47	6,069.89	173,528.07
0039091130FGD4975	10/26-11/24/09	12/30/2009	2,487.61	4,247.38	6,734.99	180,263.06
0039091230FGD4975	11/25-12/27/09	1/29/2010	2,992.17	4,358.42	7,350.59	187,613.65
0039100127FGD4975	12/28/09-01/24/10	2/26/2010	2,344.67	3,081.46	5,426.13	193,039.78
0039100226FGD4975	1/25-2/24/10	3/28/2010	2,499.86	3,775.92	6,275.78	199,315.56
0039100329FGD4975	2/25-3/24/10	4/28/2010	2,067.45	3,236.65	5,304.10	204,619.66

EXHIBIT 3

Correspondence to GNAPS from Granite State

File Copy

May 27, 2008

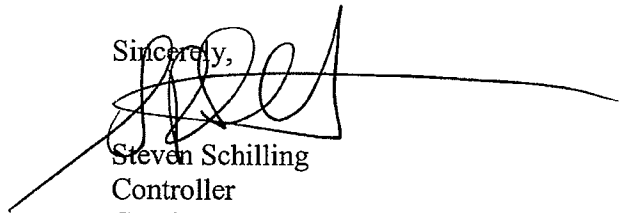
Global NAPS, Inc.
10 Merrymount Road
Quincy, MA 02169

Dear Sir or Madam:

We recently completed an internal audit of terminating traffic in our network. As a result of such efforts, we have identified certain incoming traffic from your company that we have not previously billed for under our Interstate and Intrastate access tariffs.

Accordingly, we are enclosing monthly access billings for the twenty-four months ended April 24, 2008. Your prompt attention to these billings will be greatly appreciated. If you have any questions regarding these billings, feel free to contact me at 603-529-6258 or e-mail at sschilling@gstnetworks.com.

Sincerely,



Steven Schilling
Controller
Granite State Telephone

GLOBAL NAPS INC 4975

5/27/2008 8:52

BILL PERIOD	INTERSTATE	INTRASTATE	TOTAL
04/25-05/24/06	802.74	396.60	1,199.34
05/25-06/25/06	708.46	424.96	2,332.76
06/26-06/30/06	139.06	70.96	2,542.78
07/01-07/24/06	709.09	340.60	3,592.47
07/25-08/24/06	1,058.72	476.39	5,127.58
08/25-09/24/06	1,059.40	468.65	6,655.63
09/25-10/24/06	1,366.41	451.24	8,473.28
10/25-11/26/06	1,721.39	1,081.42	11,276.09
11/27-12/25/06	921.66	431.80	12,629.55
12/26/06-01/24/07	1,057.86	524.90	14,212.31
01/25-02/25/07	1,371.65	741.56	16,325.52
02/26-03/25/07	1,079.69	585.29	17,990.50
03/26-04/24/07	1,569.43	758.63	20,318.56
04/25-05/24/07	1,817.16	663.00	22,798.72
05/25-06/24/07	1,848.70	482.05	25,129.47
06/25-06/29/07	290.56	102.97	25,523.00
06/30-07/24/07	2,391.23	514.83	28,429.06
07/25-08/26/07	3,636.95	905.65	32,971.66
08/27-09/24/07	5,879.78	2,210.92	41,062.36
09/25-10/24/07	3,076.33	1,765.03	45,903.72
10/25-11/25/07	3,061.80	596.39	49,561.91
11/26-12/25/07	4,580.69	737.96	54,880.56
12/26-01/24/07	6,666.57	1,288.09	62,835.22
01/25-02/24/08	3,818.75	807.03	67,461.00
02/25-03/24/08	2,658.02	1,149.65	71,268.67
03/25-04/24/08	4,446.86	1,622.87	77,338.40
	57,738.96	19,599.44	77,338.40

Global NAPS PIU Calculation

	<u>08-04</u>	<u>08-03</u>	<u>08-02</u>	<u>08-01</u>	<u>Total</u>
Total Identified Interstate	194,455	98,793	146,734	267,488	707,470
Total Identified Intrastate	18,234	11,659	7,260	12,062	49,215
Total Identified MOU	212,689	110,452	153,994	279,550	756,685
PIU	91.4%	89.4%	95.3%	95.7%	93.50%
Total All MOU	229,641	138,800	189,954	330,690	889,085
% Identified	92.6%	79.6%	81.1%	84.5%	85.1%



600 South Stark Highway
PO Box 87
South Weare, New Hampshire 03281

603.529.9911
(fax) 603.529.1020
www.GraniteStateTelephone.com

July 8, 2008

CERTIFIED LETTER

Global NAPS
10 Merrymount Road
Quincy, Ma 02169

Dear Sir or Madam:

We still haven't heard from you regarding access billings for the twenty-four months ended April 24, 2008 invoiced to you on May 23, 2008. That balance of \$77,338.40 is now overdue.

To avoid any action on your account, please remit payment immediately. Failure to respond could result in damage to your credit rating and additional legal action.

We urge you to send us a check before July 15. If you want to discuss special arrangements for payment, please contact us at (603) 529-6258.

Sincerely,

A handwritten signature in black ink, appearing to be "SS", with a long horizontal flourish extending to the right.

Steven Schilling
Controller