

THE STATE OF NEW HAMPSHIRE

BEFORE THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DOCKET NO. DT 08-_____

Joint Petition of Hollis Telephone Company, Inc.,)
Kearsarge Telephone Company, Merrimack County)
Telephone Company, and Wilton Telephone Company)
Inc., ("Joint Petitioners") for Authority to Block the)
Termination of Traffic from Global NAPs, Inc., to)
Exchanges of the Joint Petitioners on the Public)
Switched Telephone Network)

JOINT PETITION

1. Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company, Inc. (collectively referred to herein as the "TDS Telecom Companies" or the "Joint Petitioners"), by and through their undersigned counsel and pursuant to RSA §§ 365:1 and 374:3, hereby jointly petition the New Hampshire Public Utilities Commission ("NHPUC") to grant the TDS Telecom Companies authority to block the termination of all traffic carried by Global NAPs, Inc. ("GNAPs") to exchanges on the public-switched telephone network ("PSTN") of the TDS Telecom Companies in the State of New Hampshire.

A. Introduction

2. For an extended period of time, GNAPs has accrued significant monthly access charges for terminating its traffic in New Hampshire exchanges served by the TDS Telecom Companies. Despite repeated requests by the TDS Telecom Companies to GNAPs to bring GNAPs' New Hampshire accounts current, GNAPs has failed to pay, and its New Hampshire accounts with the TDS Telecom Companies now show \$192,644.25 due and owing to the TDS Telecom Companies. The TDS Telecom Companies have attempted to resolve these issues with GNAPs, to no avail.

3. While continuing to pursue its collection actions directly with GNAPs, the TDS Telecom Companies now respectfully petition the NHPUC to:

- Grant authority to the TDS Telecom Companies, on such notice and terms as the NHPUC may deem appropriate, to block the further termination of traffic from GNAPs to exchanges served by the TDS Telecom Companies in New Hampshire; and

- Grant such other relief to the TDS Telecom Companies as the NHPUC may deem appropriate in the due administration of justice.

4. In support of their Joint Petition, the TDS Telecom Companies allege as follows:

B. Parties

The TDS Telecom Companies

5. The TDS Telecom Companies are New Hampshire domestic corporations and public utilities operating pursuant to the jurisdiction of the NHPUC and authorized to serve as incumbent local exchange companies (“ILECs”) 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.

6. The TDS Telecom Companies provide local exchange services in their respective service areas in New Hampshire, including interconnection services and exchange access services, pursuant to tariffs on file with the NHPUC and the Federal Communications Commission (“FCC”).

7. The names and addresses of the Joint Petitioners, and the respective exchanges served by the TDS Telecom Companies in New Hampshire, are as follows:

- A. Wilton Telephone Company, Inc. (“WTC”)
109 Main St.
Wilton, New Hampshire 03086
Exchange served: Wilton

- B. Merrimack County Telephone Company (“MCTC”)
11 Kearsarge Ave.
Contoocook, New Hampshire 03229
Exchanges served: Antrim, Bradford, Contoocook, Henniker,
Hillsborough, Melvin Village, Sutton and
Warner

- C. Kearsarge Telephone Company (“KTC”)
242 Main St.
New London, New Hampshire 03257
Exchanges served: Andover, Boscawen, Chichester, Meriden,
New London and Salisbury

D. Hollis Telephone Company, Inc. ("HTC")
109 Main St.
Wilton, New Hampshire 03086
Exchange served: Hollis

8. All pleadings, orders, notices and other correspondence with respect to this docket should be addressed to:

Paul J. Phillips, Esq.
Primmer Piper Eggleston & Cramer PC
100 East State St.
Montpelier, VT 05602

With a copy to:

Peter R. Healy, Esq.
Corporate and Regulatory Counsel
TDS Telecom
525 Junction Road, Suite 7000
Madison, WI 53717

Global NAPs, Inc.

9. GNAPS is a Delaware corporation and a public utility operating as a competitive local exchange carrier ("CLEC") (as that term is defined in New Hampshire Admin. Rule Puc 402.11). GNAPS is authorized by the NHPUC to provide local exchange telecommunications services in the State of New Hampshire, pursuant to Docket No. DE 98-024, Order No. 22,976 (July 8, 1998).

10. On information and belief, GNAPS is also operating as an "interexchange carrier" ("IXC") (as that term is defined in New Hampshire Admin. Rule Puc 402.25) and is providing interstate and intrastate toll services in the State of New Hampshire.

11. On information and belief, GNAPS is also operating as a "Competitive Intrastate Toll Provider" ("CTP") (as that term is defined in New Hampshire Admin. Rule Puc 402.10). As such, GNAPS is, or should be, authorized by the NHPUC to provide IntraLATA toll services in the State of New Hampshire.

12. The present petition addresses GNAPs' activities as a CLEC, CTP and/or IXC transporting and terminating interstate and intrastate toll traffic to exchanges in New Hampshire served by the TDS Telecom Companies.

13. To the best of the TDS Telecom Companies' knowledge, the names and addresses of respondents are:

- A. James R.J. Scheltema, Esq.
Director of Regulatory Affairs
Global NAPs, Inc.
4475 Woodbine Road, Suite 7
Pace, FL 32571
- B. Robert Fox
Vice President/Industry Relations
Global NAPs, Inc.
24 Wayne Court
Northport, NY 11768
- C. Global NAPs, Inc.
Legal Department
89 Access Road
Norwood, MA 02062

C. Jurisdiction

14. The NHPUC has jurisdiction over the Joint Petition pursuant to RSA 365:1 and 374:3. The petition addresses the NHPUC's general supervisory authority over public utilities and their plant in the State of New Hampshire. The TDS Telecom Companies and GNAPs are public utilities subject to the NHPUC's supervisory jurisdiction. The allegations advanced herein concern the use of public utility plant owned by the TDS Telecom Companies in the State of New Hampshire and used by GNAPs for the unpaid termination of both interstate and intrastate toll traffic in New Hampshire. The Joint Petitioners seek approval to block the further use of their New Hampshire networks by GNAPs for such calls, without distinction between interstate and intrastate traffic. The Petition thus addresses both intrastate and interstate access charge disputes. If the Commission concludes that it does not have jurisdiction over the interstate charges, it can and should resolve the Joint Petitioners' request with respect to the intrastate charges.

D. Allegations of Material Facts

15. As a CLEC, CTP and/or IXC, GNAPs interconnects with the local-exchange networks of the TDS Telecom Companies in order to terminate calls to end-user customers in exchanges served by the TDS Telecom Companies in New Hampshire. A typical interexchange call (i.e., an intrastate toll call) utilizes the access services of the originating and terminating local exchange carriers to carry a call through an intermediate carrier's facilities (in this case, the facilities of GNAPs) from the calling customer to the called end-user customer.

16. Intercarrier compensation mechanisms for the origination and termination of local and toll service traffic vary significantly. The rating of telecommunications traffic – that is, whether it is local or interexchange (i.e. toll) traffic and, if the latter, whether it is interstate or intrastate interexchange traffic – has historically been determined by the originating and terminating end points of the call.¹

17. As New Hampshire ILECs, the TDS Telecom Companies each have an Intrastate Access Tariff on file with the NHPUC that has been in force at all material times for purposes of this Joint Petition. Under New Hampshire law, tariffs duly filed by an ILEC have the force and effect of law. N.H. Admin. Rule Puc 402.52.

18. The TDS Telecom Companies also each have an Interstate Access Tariff, as filed by the National Exchange Carrier Association (NECA), on file with the Federal Communications Commission ("FCC") that has been in force at all material times for purposes of this Joint Petition.

19. The respective Intrastate and Interstate Access Tariffs of the TDS Telecom Companies establish the applicability and current rates, terms and conditions for the TDS Telecom Companies' provision of intrastate and interstate access service in New Hampshire. The specific sections establishing the access rates at issue in this Joint Petition are as follows:

A. Section 17 of the respective TDS Telecom Companies' Interstate Access Tariffs establishes the applicable rates for terminating interstate switched access services to exchanges served by WTC, MCTC, KTC and HTC in New Hampshire.

¹ See e.g., *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98 and *In the Matter of Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, Declaratory Ruling and Notice of Proposed Rulemaking, FCC 99-38, released February 26, 1999

B. Section 17 of the respective Intrastate Access Tariffs for WTC, MCTC and KTC establishes the applicable rates for terminating intrastate switched access services to exchanges served by WTC, MCTC and KTC in New Hampshire.

C. Sections 3 and 6 of the Intrastate Access Tariff of HTC establish the applicable rates for terminating intrastate switched access to the exchange served by HTC in New Hampshire.

20. From February 2003 through January 2008, inclusive, and continuing thereafter to the date of the instant Joint Petition, GNAPS has sent terminating traffic to exchanges served by the TDS Telecom Companies in New Hampshire.

21. Records of the TDS Telecom Companies indicate that the aforementioned traffic included both intrastate and interstate traffic minutes for which GNAPS failed to pay the applicable access charges set forth in the respective interstate and intrastate tariffs of the TDS Telecom Companies.

22. To date, the TDS Telecom Companies are due \$192,644.25 for terminating access charges applicable to the traffic terminated by GNAPS in exchanges served by the TDS Telecom Companies in New Hampshire.

23. Analysis of the call detail records applicable to this traffic indicates that traffic was delivered by GNAPS to the TDS Telecom Companies for termination to customers in the 469 (Meriden), 526 (New London), 648 (Salisbury), 735 (Andover), 796 (Boscawen), and 798 (Chichester) exchanges.

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

25. The local calling area for each TDS Telecom Company is defined in the Sections of each company's General Exchange Tariff listed below:

Hollis Telephone Company	Part Two, Sections 1, 6, 7
Kearsarge Telephone Company	Section 2
Merrimack County Telephone Company	Part Two, Sections 1, 2, 3
Wilton Telephone Company	Part Two, Sections 1, 2, 4

26. Since December 2004, the TDS Telecom Companies have attempted to resolve their ongoing dispute with GNAPs concerning GNAPs' non-payment of applicable access charges, to no avail.

27. The TDS Telecom Companies have now concluded that the further termination of GNAPs traffic to areas served by the TDS Telecom Companies in New Hampshire is contrary to the public good, insofar as payment for such services is unlikely to be forthcoming and so the unrecovered costs thereof must be borne by the ratepayers of the TDS Telecom Companies generally.

28. The TDS Telecom Companies desire to block the further use of their New Hampshire facilities by GNAPs to prevent the continued increase in unrecoverable costs.

29. By letter dated January 28, 2008, counsel for the TDS Telecom Companies notified GNAPs in writing that GNAPs must remit payment in order to forestall regulatory and/or legal recourse in this matter. A copy of the TDS Telecom Companies' letter to GNAPs is attached hereto as "Exhibit 1." The TDS Telecom Companies have had no response from GNAPs to this letter.

30. By letter dated February 11, 2008, counsel for the TDS Telecom Companies gave written notice to GNAPs that the TDS Telecom Companies intended to discontinue services to GNAPs in the State of New Hampshire unless payment was received in full from GNAPs. A copy of the TDS Telecom Companies' notice to discontinue services is attached hereto as "Exhibit 2." The TDS Telecom Companies have had no response from GNAPs to this notice.

E. Violations by GNAPs

31. GNAPs has violated the TDS Telecom Companies' lawful tariffs by not remitting to the TDS Telecom Companies the invoiced access charges calculated at the applicable tariffed rates for intrastate and interstate traffic.

32. GNAPs has violated N.H. Admin. Rule Puc 431.19 (applicable to CLECs), by:

- A. Conducting its New Hampshire business in an unfair and deceptive manner, by incurring lawful charges for which GNAPs had no intention to pay;

- B. Engaging in consistent or flagrant violations of New Hampshire utility law, by refusing to pay lawful charges to the TDS Telecom Companies over a period of several years;
- C. Demonstrating that GNAPs does not meet the minimum standards necessary to operate as a CLEC in New Hampshire, by refusing to communicate with the TDS Telecom Companies in good faith, by refusing to pay charges established by lawful tariff, and by causing the retail customers of the TDS Telecom Companies to bear the costs of GNAPs' unpaid services, in contravention of the public good.

33. GNAPs has violated N.H. Admin. Rule Puc 451.14 (applicable to CTPs),
by:

- A. Failing to register as a CTP, as required by N.H. Admin. Rule Puc 451.01(a), and failing to properly initiate its CTP authorization as required by N.H. Admin. Rule Puc 451.10;
- B. Conducting its New Hampshire business in an unfair and deceptive manner, by incurring lawful charges for which GNAPs had no intention to pay;
- C. Engaging in consistent or flagrant violations of New Hampshire utility law, by refusing to pay lawful charges to the TDS Telecom Companies over a period of several years;
- D. Demonstrating that GNAPs does not meet the minimum standards necessary to operate as a CTP in New Hampshire, by refusing to communicate with the TDS Telecom Companies in good faith, by refusing to pay charges established by lawful tariff, and by causing the retail customers of the TDS Telecom Companies to bear the costs of GNAPs' unpaid services, in contravention of the public good.

Request for Relief

WHEREFORE, based on all the foregoing, the TDS Telecom Companies respectfully ask the NHPUC for relief as follows:

- A. To initiate appropriate proceedings to consider the issues set forth in this complaint and to rule in favor of TDS Telecom and against GNAPs.

B. To authorize the TDS Telecom Companies to block the further exchange of traffic between GNAPs and the TDS Telecom Companies in New Hampshire.

C. To impose conditions on GNAPs' authorizations as a CLEC, IXC and/or CTP in New Hampshire that would prohibit GNAPs from terminating further traffic in exchanges served by the TDS Telecom Companies in New Hampshire until such time as GNAPs has fully satisfied its existing obligations to the TDS Telecom Companies.

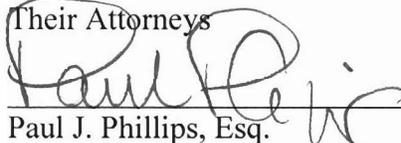
D. Order any and all additional relief as the NHPUC, in its discretion, may deem necessary and appropriate in the due administration of justice.

DATED at Plymouth, New Hampshire, this 19th day of February, 2008.

Respectfully submitted,

TDS TELECOM, HOLLIS TELEPHONE
COMPANY, KEARSARGE TELEPHONE
COMPANY, MERRIMACK COUNTY
TELEPHONE COMPANY, WILTON
TELEPHONE COMPANY

By: PRIMER PIPER EGGLESTON & CRAMER PC,
Their Attorneys

By: 
Paul J. Phillips, Esq.
Joslyn D. Wilschek, Esq.
Primer Piper Eggleston & Cramer PC
100 East State Street, P.O. Box 1302
Montpelier, VT 05602-1302
(802) 223-2102 (tel)
(802) 223-2628 (fax)
pPhillips@ppeclaw.com

January 28, 2008



Mr. Robert J. Fox
 Vice-President Industry Relations
 Global NAPs, Inc.
 24 Wayne Court
 Northport, NY 11768

RE: Denial of Claim Action- Final Notice

Contoocook Valley Telephone Company (33205133D4), Hollis Telephone Company (33215133D3), Kearsarge Telephone Company (00455133D3), Merrimack County Telephone Company (00475133D3) and Wilton Telephone Company (00505133D3).

The purpose of this letter is to respond to claims made by Global NAPs, Inc. and its affiliates as it relates to traffic exchanged with the TDS Telecom companies listed above. Global NAPs has asserted that all traffic exchanged between Global NAPs and TDS Telecom is "information access traffic" and subject to the provisions of the FCC's ISP Remand Order.

Contrary to this interpretation, the ISP Remand Order specifically addresses the "proper treatment for purposes of inter-carrier compensation of telecommunications traffic **delivered to Internet Service Providers (ISPs).**"¹ The ISP Remand Order determines that such ISP-Bound traffic is not subject to the reciprocal compensation provisions of §251 (b)(5) of the Act. The text of the order makes clear that the decision contemplates and is applicable only to telecommunications traffic that is destined for the Internet, and specifically does not address traffic that originates from or merely traverses the Internet.

Review of billing data indicates the traffic exchanged between Global NAPs and TDS Telecom to be terminating on the TDS Telecom network. To the best of our knowledge there is not an ISP located in the TDS Telecom serving area to which calls would be terminating, nor has Global NAPs identified any such ISP. Therefore we would have to conclude this traffic to be voice in nature as opposed to the ISP-Bound traffic subject to the ISP Remand Order. TDS Telecom is lawfully billing terminating access to Global NAPs pursuant to applicable tariffs. Any reliance by Global NAPs on the ISP Remand Order as a basis for disputing those charges is misplaced and the resulting claim is hereby denied.

As of January 1st, 2008 Global NAPs past due balance with the TDS Telecom companies in New Hampshire is **\$180,398.74**. TDS Telecom requests that Global NAPs immediately remit payment in full to the address listed on the invoices. If payment in full is not received, TDS Telecom will pursue regulatory and/or legal recourse in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Healy", written over a horizontal line.

Peter Healy
 Corporate and Regulatory Counsel
 TDS Telecom / TDS Metrocom
 525 Junction Road, Suite 7000, Madison, WI 53717
 Phone: 608-664-4117
 Fax: 608-830-5582
 peter.healy@tdsmetro.com

¹ In the Matter of *Inter-carrier Compensation for ISP-Bound Traffic*, Order on Remand and Report and Order, CC Docket No. 99-68, Released April 27, 2001. (emphasis added)



February 11, 2008

Mr. Robert J. Fox
Vice-President Industry Relations
Global NAPs, Inc.
24 Wayne Court
Northport, NY 11768

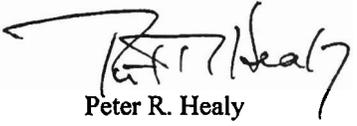
Re: Notice of Intent to Disconnect Service
Contoocook Valley Telephone Company (33205133D4), Hollis Telephone Company (33215133D3);
Kearsarge Telephone Company (00455133D3), Merrimack County Telephone Company (00475133D3)
and Wilton Telephone Company (00505133D3)

Dear Mr. Fox:

This letter serves as Notice to Global NAPs, Inc. ("Global NAPs"), of the intent of the above-referenced New Hampshire local exchange carriers (the "TDS Telecom Companies") to discontinue services to Global NAPs in the State of New Hampshire. As of January 1, 2008, Global NAPs had incurred arrearages of access charges in the aggregate amount of \$180,398.74 due and owing to the TDS Telecom Companies in the State of New Hampshire.

On January 28, 2008, TDS Telecom advised Global NAPs in writing that: (1) TDS Telecom did not agree with Global NAPs's contention that the traffic exchanged between the TDS Telecom Companies and Global NAPs is "information access traffic"; (2) the traffic at issue is voice in nature and is not "ISP-bound traffic" such as would purportedly be subject to the FCC's ISP Remand Order; and (3) TDS Telecom would pursue regulatory and/or legal action if Global NAPs did not *immediately* remit payment in full.

To date, Global NAPs has not remitted payment or otherwise communicated its intentions to TDS Telecom. Accordingly, on February 19, 2008, the TDS Telecom Companies, acting pursuant to N.H. RSA 365:1 and other applicable laws, will petition the New Hampshire Public Utilities Commission for authority to discontinue the service that the TDS Telecom Companies now provide to Global NAPs. Global NAPs may avoid the commencement of regulatory proceedings in the State of New Hampshire by remitting payment in full to TDS Telecom by 4:00 p.m. (Eastern time) on February 18, 2008.


Peter R. Healy
Corporate and Regulatory Counsel
TDS Telecom
TDS Metrocom
525 Junction Road, Suite 7000
Madison, WI 53717
Phone: 608-664-4117
Fax: 608-830-5582
peter.healy@tdsmetro.com

525 JUNCTION RD
MADISON, WI 53717