



November 13, 2014

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

Re: DT 14-240, Dixville Telephone Company
Petition for Approval to Discontinue Operations

Dear Ms. Howland:

On September 22, 2014, Dixville Notch Telephone Company (Dixville) filed a Petition for Approval to Discontinue Operations pursuant to New Hampshire RSA 374:28, seeking Commission authorization to permanently discontinue its local telephone operations in New Hampshire. Dixville asserted that the balance of interests favors a determination that the public good does not require further continuance of its service, pursuant to RSA 374:28.

The National Association of State Utility Consumer Advocates (“NASUCA”)¹ submits this letter *amicus curiae* asking the New Hampshire Public Utilities Commission

¹ NASUCA is a voluntary association of advocate offices in more than 40 states and the District of Columbia, incorporated in Florida as a non-profit corporation. NASUCA’s members are designated by laws of their respective jurisdictions to represent the interests of utility consumers before state and federal regulators and in the courts. Members operate independently from state utility commissions as advocates primarily for residential ratepayers. Some NASUCA member offices are separately established advocate organizations while others are divisions of larger state agencies (e.g., the state Attorney General’s office). NASUCA’s associate and affiliate members also serve utility consumers but are not created by state law or do not have statewide authority.

(“Commission”) to consider an important provision of federal law.² 47 U.S.C. § 214(e)(4) provides that:

A State commission ... shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. ... Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the State commission (or the Commission in the case of a common carrier designated under paragraph (6)) shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier.

Dixville acknowledges that it is an eligible telecommunications carrier (“ETC”).³ Thus pursuant to 47 U.S.C. § 214(e)(4), Dixville cannot relinquish its ETC status unless there is at least one additional ETC for its service area that can ensure that all customers served by Dixville will continue to be served.⁴

Dixville is seeking to permanently discontinue its services in the pending application **before** the ETC issue is resolved. It may be that Dixville plans to file for ETC relinquishment **after** the Commission has granted authority to discontinue service “permanently and remove the equipment essential to the same.”⁵ But that will present the Commission with a *fait accompli*, as if the Commission could deny ETC relinquishment having authorized the service to be discontinued.

Thus NASUCA respectfully suggests that the Commission should address the ETC issue first, before the request to discontinue service. Pursuant to the law, this will require there to be a

² NASUCA expresses no view on the merits of Dixville Notch’s financial issues.

³ See Dixville Notch Petition (September 22, 2014) at 3 (receipt of federal Universal Service Fund support).

⁴ See letter from South Dakota Public Utilities Commission to Federal Communications Commission (“FCC”) concerning substitution of ETCs (October 30, 2014), accessible at <http://apps.fcc.gov/ecfs/document/view?id=60000979759>.

⁵ New Hampshire RSA 374:28.

replacement ETC in place, rather than there being a mere speculative possibility of another carrier that may or may not qualify as an ETC.⁶

Dixville cites no similar case, from New Hampshire or elsewhere, that involved the ETC issue embodied in federal law.⁷ It appears that this may be a case of first impression regarding the ETC requirements, hence of interest on the national scale to NASUCA and the consumers that its members represent.

Wherefore, NASUCA requests that the Commission address the ETC issue before addressing whether Dixville should be allowed to discontinue its basic service in New Hampshire.

Respectfully submitted,

/s/ Charles A. Acquard

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⁶ See Petition at 3; see also Testimony of Arthur Nicholson, at 2-4.

⁷ See Petition at 3-5.