

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: October 24, 2017

AT (OFFICE): NHPUC

FROM: ^{ML} Michael Ladam, Director, Regulatory Innovation and Strategy

SUBJECT: DT 17-156: Airus, Inc. Waiver Request of Puc 413.03(a)(1) and Puc 413.03(a)(3) (CORRECTED)

TO: Commissioners
Debra Howland, Executive Director

CC: David Wiesner, Staff Attorney

Executive Summary

Airus, Inc. (Airus) seeks a block of 1000 telephone numbers in each of four New Hampshire rate centers. Two of our rules currently require any such request, normally processed by Commission staff, to include evidence that the company will use specific owned or leased facilities in the exchange. These requirements appear to have been superseded by a 2015 Federal Communications Commission (FCC) order. Airus seeks a waiver of these two rules for both this request and future numbering requests that it may make.

In Staff's assessment, the circumstances today are similar to those under which the Commission acted in the earlier DT 16-846 Airus request. Staff recommends that the Commission grant waivers of Puc 413.03(a)(1) and Puc 413.03(a)(3) for the four current requests, but decline to issue waivers on a prospective basis.

Analysis

On October 6, 2017, Airus filed a *Form T-7: Exchange Eligibility Report* accompanied by a letter asking the Commission to waive rules Puc 413.03(a)(1) and Puc 413.03(a)(3). Airus is following the same process in making this new request as it followed in Docket DT 16-846. At that time, Staff concluded that "FCC Order 15-70 eliminates the basis for Puc 413.03(a)(1) and (3)" and recommended that the Commission grant the waivers. The Commission granted the waivers with respect to that specific request but declined to issue a prospective waiver that would apply to subsequent requests.

The Airus numbering block request of DT 16-846 was used to establish a Local Routing Number (LRN) in the 603 area code. The new request, for a block in each of four rate centers (Concord, Manchester, Rochester, and Nashua), is to provide service to customers in each of those communities.

In its Form T-7 Airus identifies a particular customer in each of these rate centers. Our rules allow both facilities-based and “over-the-top” IP-only providers such as Airus to name a particular local customer as evidence of “readiness to provide service” in an exchange. Although another over-the-top provider has objected to Staff that requiring such evidence is burdensome, Staff has concluded that a) requiring such evidence is a necessary check on use of New Hampshire telephone numbers by out-of-state end-users, and b) requiring such evidence of both traditional and over-the-top providers is consistent with FCC orders and policy.

Staff has also explored the feasibility of requiring IP-only providers to use number blocks that are not tied to specific rate centers: for example, to serve customers located in Rochester and Concord with the same 603-NXX-X block. That may indeed be technically possible in terms of call routing, and would further conserve telephone numbers. However, FCC Order 15-70 appears to reject that approach:

48. We decline to adopt other proposals in the record calling for additional restrictions and conditions on interconnected VoIP providers’ obtaining numbers, which are not imposed on telecommunications carriers. For example, we will not require interconnected VoIP providers to take numbers from certain rate centers chosen by the state commissions in more populous areas or in blocks of less than 1000 numbers.

In Staff’s assessment, maintaining a strict requirement that all number requests demonstrate readiness to serve the specific rate center is an effective tool for controlling area code exhaust. This approach also minimizes the likelihood of a claim that FCC orders have pre-empted the Commission’s approach.

Consistent with this approach, Staff recommends that the Commission grant the waivers requested for this number request.

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

Executive.Director@puc.nh.gov

amanda.noonan@puc.nh.gov

david.wiesner@puc.nh.gov

jmcluskey@airustel.com

michael.ladam@puc.nh.gov

ocalitigation@oca.nh.gov

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FILING INSTRUCTIONS:

a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:

DEBRA A HOWLAND
EXECUTIVE DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.

c) Serve a written copy on each person on the service list not able to receive electronic mail.