

THE STATE OF NEW HAMPSHIRE

CHAIRMAN
Martin P. Honigberg

COMMISSIONERS
Kathryn M. Bailey
Michael S. Giaimo

EXECUTIVE DIRECTOR
Debra A. Howland



TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-2431

FAX (603) 271-3878

Website:
www.puc.nh.gov

PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429
January 31, 2019

Brandon Shamoun
Clear Rate Communications, Inc.
2600 W. Big Beaver Rd., Suite 450
Troy, MI 48084

RE: DT 18-185, Clear Rate Communications, Inc.
Request for Waiver of Expenses Assessed Pursuant to Chapter 363-A
Denial of Waiver Request

Dear Mr. Shamoun:

On December 12, 2018, Clear Rate Communications, Inc. (Clear Rate) filed a Request for Waiver of Expenses Assessed Pursuant to Chapter 363-A of the New Hampshire Revised Statutes Annotated (RSA 363-A) (Request). The basis for the Request, according to Clear Rate, is that the company is exempt under RSA 362:7, II by virtue of being a provider of VoIP services. Clear Rate also claimed that the minimum assessment amount is excessive with respect to the revenue the company generates from New Hampshire, and therefore "has the effect of a force regulating market entry which is prohibited by" RSA 362:7, II.

On December 20, 2018, Commission Staff (Staff) filed a memorandum recommending denial of the Request because it was not filed within the applicable 30-day time period for objections under RSA 363-A:4, which occurred in September 2018. Staff noted that the Commission has previously dismissed objections to its assessments that are not timely-filed with respect to the relevant state fiscal year. *See Northern New England Telephone Operations LLC and Enhanced Communications of Northern New England, Inc.*, Order No. 25,451 (January 7, 2013).

By letter dated December 31, 2018, Clear Rate responded to Staff's memorandum. Clear Rate represented that its "lone source of revenue in the State of New Hampshire disconnected the services being provided in [the] state," and as a result "Clear Rate is no longer generating any revenue from the State of New Hampshire." Clear Rate asserted that the Commission's minimum assessment, as applied to Clear Rate, is unlawful as an impermissible barrier to entry, and as such is "in violation of the State of New Hampshire's regulations, as well as, FCC Regulations."

Clear Rate's assessment is based on 2017 income as reported on the Telecom Assessment Report, which Clear Rate filed on April 2, 2018. The first invoice for that assessment was mailed to Clear Rate on August 10, 2018. Pursuant to RSA 363-A:4, Clear Rate's objection needed to be filed no later than September 9, 2018. The Commission has reviewed the Request, Staff's recommendation, and Clear Rate's response, and has determined that the Request represents an objection to assessment filed after the applicable 30-day deadline under RSA 363-A:4 and therefore must be denied.

Accordingly, Clear Rate's Request for Waiver of Expenses Assessed Pursuant to Chapter 363-A is denied.

Sincerely,

A handwritten signature in dark ink, appearing to read "Debra A. Howland".

Debra A. Howland
Executive Director

cc: Service List

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

bshamoun@clearrate.com

david.wiesner@puc.nh.gov

kathryn.mullholand@puc.nh.gov

ocalitigation@oca.nh.gov

Docket #: 18-185-1 Printed: January 31, 2019

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.