

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 20-

**Petition of Consolidated Communications of Northern New England, LLC
For Waiver of the Wholesale Performance Plan**

CONSOLIDATED COMMUNICATIONS' PETITION

August 18, 2020

I. Introduction

1. The Commission approved the original and most recently approved changes to Consolidated Communication of Northern New England, LLC ("Consolidated's") Wholesale Performance Plan ("WPP"). The WPP provides that:

The performance requirements dictated by benchmark standards establish the quality of service under normal operating conditions, and do not necessarily establish the level of performance to be achieved during periods of emergency, catastrophe, natural disaster, severe storms, work stoppage, or other Force Majeure events beyond Consolidated Communications' control. Consolidated Communications may petition the Commission/Board for a waiver of specific performance results for benchmark metrics if Consolidated Communications' performance results do not meet the specific standard or petition for a waiver from monthly performance reporting requirements if a Force Majeure event impedes Consolidated's ability to report performance results. See Consolidated's Wholesale Performance Plan Section 1(c) at pg. 21¹.

2. With respect to filing a request for a waiver the WPP provides:

Consolidated's petition must be filed within 21 calendar days from the date the monthly data is reported. CLECs and other interested parties may file an initial reply to the petition within 21 calendar days of the filing. The Commission/Board shall endeavor to issue its ruling within 90 calendar days of the petition filing date. See Consolidated's Wholesale Performance Plan Section 1(c) at pg. 21.

¹ Except for name changes, this provision is the same in both the original and amended WPP.

II. The Consolidated Cyberattack

3. Beginning late at night on June 18, 2020 Consolidated experienced a Force Majeur event, Consolidated was impacted by a cybersecurity attack.
4. The attack penetrated Consolidated's systems and began attempting to access certain data. Upon discovering that the Company was under attack, the Company immediately began removing the links between systems in order to stop access to additional Consolidated data and to prevent substantial harm.
5. As a result of the attack, Consolidated's provisioning system was offline and therefore orders entered into the Virtual Front office ("VFO") were unable to reach the downstream operational systems to get the data needed to complete the responses to preordering and ordering systems. Therefore, on Friday, June 19, 2020 Consolidated systems were not able to complete their functions on orders and pre-orders that were submitted through the VFO.
6. Competitive local exchange carriers use the VFO to place orders with Consolidated.
7. The inability to access downstream operational support systems from 8 am to 9 pm on Friday June 19, 2020 resulted in WPP performance that was significantly worse than it would have been under normal conditions.

8. Attached as Exhibit A and B are the CLEC aggregate reports filed with the Commission. Exhibit A shows Consolidated's actual performance while Exhibit B shows Consolidated's performance removing the period beginning at 8 am on June 19, 2020 and ending at 9 pm that same evening.
9. As demonstrated in these reports, removing this short one day period reduces Consolidated's total penalty in New Hampshire for the month of June by nearly 76% from \$5903.50 to \$1453.
10. Of the reduction of \$4,450, \$3875 of it is related to a single metric PO-1-08-6040 % *Timeouts*. This metric measures the percentage of pre-order transactions that fail to send a response within 60 seconds.
11. Since Consolidated's systems were offline they were not able to provide a response at all during this period, much less a response within 60 seconds. Therefore, all transactions received between 8am and 9pm on June 19th were counted as a miss. During this 13 hour measurement period, throughout the three state region in Northern New England, 1925 pre-order transactions were submitted that did not receive a response within 60 seconds.
12. Consolidated missed only 70 other timeout transactions during the balance of June.
13. The resulting penalty for a 24 hour missed metric (13 hour measurement period) for PO-1-08-6040 (\$3875), is four times more than what Consolidated had incurred in penalties in the preceding 5 months 2020 for this metric (\$840) and more than a quarter of what Consolidated incurred in this metric in all of 2019 (\$12,650).

14. This was not Consolidated's normal performance, which is what is supposed to be measured in the WPP, but rather performance that resulted from steps that needed to be taken to prevent further disruption from a cyberattack that was outside Consolidated's control.
15. Consolidated quickly notified CLECS of the issues with their systems via accessible letter on the 19th.
16. Cyberattacks are one of the biggest threats in today's system driven world. See the Center for International Studies list of significant cyberattacks.²
17. Cyberattacks have penetrated some of the world's largest institutions, including Adobe, eBay, Equifax, LinkedIn, Marriott International and Yahoo to name a few.³ Just this week, it impacted the Canadian Government.⁴
18. Consolidated has teams in place that continually monitor and plan for defending against cyberattacks. While cyberattacks are a known threat, since they are an intentional malicious behavior, by individuals that are seeking to find any possible gaps in a company's system, they cannot be completely avoided.
19. What can reasonably be expected is that companies plan for these attacks and take all reasonable steps to avoid significant impacts. Consolidated has done this. Prior to this, during its tenure in New Hampshire it has not experienced a cyberattack that has caused a significant disruption to operations.

² https://csis-website-prod.s3.amazonaws.com/s3fs-public/200727_Cyber_Attacks.pdf

³ <https://www.csoonline.com/article/2130877/the-biggest-data-breaches-of-the-21st-century.html>

⁴ <https://threatpost.com/cyberattacks-canadian-tax-benefit-accounts/158400/>

20. In this instance, Consolidated's response was swift and prevented further penetration into its network. As a result, customer data was not compromised. Consolidated restored systems in short order.

21. The event was outside of Consolidated's control and impacted Consolidated's ability to meet the standard this caused a significant financial penalty⁵.

22. Consolidated's request in this instance is limited, in that it only seeks to remove a short 13 hour measurement period from its performance.

23. To require Consolidated to pay penalties on performance that is so far outside the norm, for an event that was beyond Consolidated's control, does not ensure performance but rather disproportionately punishes Consolidated and unjustly enriches its competitors.

III. Request For Relief

For all these reasons, Consolidated respectfully requests the Commission:

- a. Within 90 days of this petition, approve a limited waiver allowing Consolidated to remove its performance on June 19, 2020 from its June data month and not pay the penalties associated with the metrics missed as a result of the transactions on this day.

⁵ While the financial penalty in New Hampshire is limited, across the three Northern New England States it exceeds \$50,000 for a single days' missed metrics.

Respectfully submitted this 18th day of August, 2020.

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