

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: September 28, 2020
AT (OFFICE): NHPUC

FROM:  Kath Mullholand, Director – Regulatory Innovation and Strategy Division

SUBJECT: Docket No. DT 20-134
Consolidated Communications of Northern New England Company, LLC
Petition for a Waiver Under the Wholesale Performance Plan
Staff Recommendation

TO: Commissioners
Debra A. Howland, Executive Director

CC: David K. Wiesner, Legal Division Director

On August 19, 2020, Consolidated Communications of Northern New England Company, LLC (Consolidated) filed a Petition for a Waiver Under the Wholesale Performance Plan (WPP) Section 1(c) (Petition).¹ Consolidated stated that, beginning late at night on June 18, 2020, its systems were affected by a cybersecurity attack that attempted to penetrate those systems to access certain data. According to Consolidated, upon discovering that its systems were under attack, it immediately began removing links between systems in order to stop access to additional data and to prevent substantial harm. As a result of the cyberattack and its defensive measures, Consolidated's provisioning system was offline and therefore wholesale provisioning orders entered into its "Virtual Front Office" were unable to reach the downstream operational systems to access data needed to fully respond to those orders. On June 19, Consolidated's systems were not able to complete functions necessary to process orders and preorders submitted by competitive local exchange carriers (CLECs). That inability occurred over a period of 13 hours on June 19, and Consolidated calculated the resulting WPP penalties to total approximately \$4,450 for New Hampshire.

Section 1(c) of 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.

¹ See Consolidated's Wholesale Performance Plan Section 1(c) at page 21.

The WPP provides that CLECs and other interested parties may file an initial reply to such a petition for waiver within 21 calendar days after its filing, and provides 90 days for the Commission to endeavor to make a decision on the petition. The Commission solicited comments by secretarial letter on August 25, 2020, requiring comments to be filed no later than September 9. The Commission received no comments.

Staff acknowledges the current Covid-19 state of emergency, which has generally created challenges for companies with respect to in-person work and personnel availability, but also may have created additional potential for increased cyberattack activity. Staff believes that the nature and timing of the cyberattack and the overall environment in which it occurred should be taken into consideration in evaluating Consolidated's waiver request.

Under this specific set of circumstances, Staff recommends that the Commission grant the waiver requested in the Petition, while also affirming an ongoing expectation that Consolidated be vigilant and proactive with regard to cybersecurity, taking all reasonable steps to mitigate future such events and ensuring that access to its wholesale systems is protected to the same degree that its internal systems are protected.