

DT 00-036

NET-TEL CORPORATION

**Petition for Authority to Provide
Local Telecommunications Services**

Order Nisi Granting Authorization

O R D E R N O. 23,499

May 31, 2000

On February 22, 2000, NET-tel Corporation (NC) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to the policy goals set by the New Hampshire Legislature in RSA 374:22-g, effective July 23, 1995. On May 2, 2000, NC filed additional information.

Pursuant to Puc Chapter 1300, an applicant's petition for certification shall be granted when the Commission finds that (1) all information listed in Puc 1304.02 has been provided to the Commission; (2) the applicant meets standards for financial resources, managerial qualifications, and technical competence; and, (3) certification for the particular geographic area requested is in the public good.

The Commission Staff (Staff) has reviewed NC's petition for compliance with these standards. Staff reports

that the company has provided all the information required by Puc 1304.02. The information provided supports NC's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b), (e), (f), and (g). Staff, therefore, recommends approval of NC as a New Hampshire CLEC.

NC has provided a sworn statement and request for waiver of the surety bond requirement in Puc 1304.02(b) stating that they do not require advance payments or deposits of their customers. Staff recommends granting the waiver.

NC has requested a waiver of any reporting requirements which, although applicable to incumbent LECs, are not applicable to competitive providers such as NC because such requirements: (1) are not consistent with the demands of the competitive market; or (2) they constitute an undue burden on a competitive provider, thereby requiring an inefficient allocation of its limited resources. Staff recommends against granting the waiver.

We find that NC has satisfied the requirements of Puc 1304.01(a)(1) and (2). In addition, we find that certification of NC in its intended service area, Bell Atlantic's current service area, is in the public good, thus meeting the requirement of Puc 1304.01(a)(3). In making this

finding, as directed by RSA 374:22-g, we have considered the interests of competition, fairness, economic efficiency, universal service, carrier of last resort, the incumbent's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. This finding is further supported by the Telecommunications Act of 1996 (TAct). Because NC has satisfied the requirements of Puc 1304.01(a), we will grant certification.

As part of its application, NC agreed to abide by Bell Atlantic's present and future rates for intraLATA switched access or to charge a lower rate. If, at any point, NC seeks to exceed Bell Atlantic's access rates it shall first contact the Staff to review the proposal. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop. CLECs charging higher access rates than they, in turn, pay Bell Atlantic could inhibit intraLATA toll competition which would call into question Section 253 of the Tact.

We note that as new competitors enter the market, greater pressure is put on the 603 area code, so long as today's antiquated number assignment process remains in effect. Accordingly, we will require that NC request and use numbers responsibly and conservatively, and to join in

exploring alternative mechanisms to use existing numbers as efficiently as possible and thereby avert the need for a new area code. By granting this authority NC is required to comply with our orders on number conservation including Order No. 23,385 issued January 7, 2000 and Order No. 23,392 issued January 27, 2000 as well as further orders issued by the Commission concerning this matter.

Based upon the foregoing, it is hereby

ORDERED NISI, that NC's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Bell Atlantic, is GRANTED, subject, inter alia to the requirements of Puc 1304.03; and it is

FURTHER ORDERED, that NET-tel Corporation is required to comply with our Order No. 23,385 issued January 7, 2000, Order No. 23,392 issued January 27, 2000, and further orders issued by the Commission concerning number conservation; and it is

FURTHER ORDERED, that request for waiver of the surety bond requirement per Puc 1304.02(b) is granted; and it is

FURTHER ORDERED, that, since revenues generated in New Hampshire must be filed with the Commission on an annual

basis as part of the New Hampshire Public Utilities Commission Annual Report, the request for waiver of the reporting requirements is denied; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than June 7, 2000 and to be documented by affidavit filed with this office on or before June 19, 2000; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi shall submit their comments or file a written request for a hearing on this matter before the Commission no later than June 19, 2000; and it is

FURTHER ORDERED, that this Order Nisi shall be effective June 30, 2000, unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Petitioner shall file, ten days prior to commencing service, a rate schedule including the name, description and price of each service, with the Commission in accordance with N.H. Admin. Rules, Puc 1304.03(b).

By order of the Public Utilities Commission of New
Hampshire this thirty-first day of May, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary