

DT 01-235

BIDDEFORD INTERNET CORPORATION

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

Order Nisi Granting Authorization

O R D E R N O. 24,061

October 4, 2002

On December 5, 2001, Biddeford Internet Corporation (BIC) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide facilities-based and resold local exchange and interexchange telecommunications service, pursuant to RSA 374:22-g. A petition for authority to provide local exchange service in New Hampshire is a request for certification as a Competitive Local Exchange Carrier, (CLEC) governed by New Hampshire Administrative Rules Chapter Puc 1300. A request for authority to provide interexchange telecommunications (or toll) service is governed by NH Admin. Rules Puc 411, and dealt with through a separate process. This order will address Biddeford's request for certification as a CLEC.

BIC is incorporated under the laws of the State of Maine, conducts business in Maine under the name of Great Works Internet, and is authorized as a CLEC in Maine. BIC stated in its application that it intends to bundle Internet services with

other product offerings it sells in New Hampshire, and that BIC will offer ATM and/or Frame Relay Service to its customers.

Pursuant to Puc Chapter 1300, an applicant's petition for certification as a CLEC 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 BIC's petition for compliance with these standards. Staff reports that the company has provided all the information required by Puc 1304.02 and that the information provided supports BIC'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 further reports that adding BIC to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

BIC requests a waiver of the surety bond requirement in Puc 1304.02(b). In support, BIC submitted a sworn statement that it does not require advance payments or deposits of their customers. Staff recommends granting the waiver.

BIC also requests a waiver of Puc 1304.02(a)(6), which requires the filing of a U.S.G.S. based map of the areas in which service will be offered. BIC avers that it will offer service only in those territories served by Verizon New Hampshire. Maps of that territory are already on file with the Commission. Staff recommends granting the waiver.

We find that BIC has satisfied the requirements of Puc 1304.01(a)(1) and (2) and, further, that authorization 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. Because BIC has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

Given that BIC will not charge any customer deposits, we find reasonable BIC's request for a waiver of the requirement it post a surety bond to cover refunds of deposit. We also find reasonable BIC's request for a waiver of the requirement that it file maps delineating the territory in which it intends to provide service. We will grant both requests.

As part of its petition, BIC avers it will charge access rates no higher than Verizon New Hampshire's present and

future rates for intraLATA switched access. Further, at any point it seeks to exceed Verizon New Hampshire's access rates, BIC agrees it will first seek Commission approval. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop, in order to avoid any inhibition of intraLATA toll competition in contravention of the Telecommunications Act of 1996.

Pursuant to Puc 1304.02(a)(7), applicants for CLEC certification agree to adhere to all state laws and Commission policies, rules and orders. We take this opportunity to draw attention to two rules in particular. Puc 1306.01(8) and Puc 1306.01(10), respectively, describe Enhanced 911 (E911) and Telecommunications Relay Service (TRS) as part of the minimum basic service that every CLEC must provide. Pursuant to Puc 1306.01(c), authorized CLECs are responsible to collect and properly remit the E911 surcharge, currently set at 42 cents per access line. Pursuant to Puc 1306.01(b), authorized CLECs are also responsible to collect and remit TRS charges, currently set at 8 cents per access line.

As new competitors enter the telecommunications market we recognize that New Hampshire's 603 area code encounters constantly increasing demand. Accordingly, we will require that BIC request and use numbers responsibly and conservatively, and invite BIC to explore alternative mechanisms to use existing

numbers as efficiently as possible. In approving this application, we require BIC 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 subject to the effective date below, BIC's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Verizon New Hampshire, is GRANTED, subject to all relevant Commission rules and orders; and it is

FURTHER ORDERED, that BIC's request for a waiver of the map filing requirement in Puc 1304.02(a)(6) is GRANTED; and it is

FURTHER ORDERED, that BIC's request for waiver of the surety bond requirement per Puc 1304.02(b) is hereby GRANTED subject to BIC's agreement not to collect any deposit, prepayment or advance payment prior to the provision of service; and it is

FURTHER ORDERED, that no less than ten days prior to commencing service, the Petitioner shall file with the Commission a rate schedule including the name description and price of each service, in accordance with N.H. Admin. Rules, Puc 1304.03(b); and it is

FURTHER ORDERED, that BIC 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 October 14, 2002 and to be documented by affidavit filed with this office on or before October 28, 2002; 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 October 21, 2002; and it is

FURTHER ORDERED, that this Order Nisi shall be effective November 1, 2002, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that, should the petitioner fail to exercise the authority granted herein within two years of the date of this order, the authority granted shall be deemed withdrawn, null, and void.

By order of the Public Utilities Commission of New Hampshire this fourth day of October, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland

Executive Director and Secretary