

DT 02-229

IDT America, Corporation

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

Order Nisi Granting Authorization

O R D E R N O. 24,124

February 7, 2003

On December 18, 2002, IDT America Corporation (IDT) 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. A petition for such authority in New Hampshire is a request for certification as a Competitive Local Exchange Carrier (CLEC), governed by New Hampshire Administrative Rules Chapter Puc 1300.

IDT is certified to provide intralATA toll service in the State of New Hampshire. That authority was granted in Docket No. DE 94-308 by Order No. 21,662 dated May 22, 1995. The Commission's Consumer Affairs division reports there have been no complaints registered against IDT.

IDT, a New Jersey corporation, is a wholly-owned subsidiary of IDT Domestic Telecom, Inc. which in turn is a wholly-owned subsidiary of IDT Telecom. IDT Telecom is a wholly-owned subsidiary of IDT Corporation. IDT is authorized to

provide local exchange service as in New Jersey, New York, Pennsylvania, Massachusetts, Florida and the District of Columbia. The applicant has not yet commenced offering local exchange service in any of those jurisdictions, according to the application.

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 IDT'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 IDT'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 IDT to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

IDT requests a waiver of the surety bond requirement in Puc 1304.02(b). In support, IDT submitted a sworn statement that

it does not require deposits from customers. Staff recommends granting the waiver.

IDT 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. IDT 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 IDT 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. This finding is further supported by the Telecommunications Act of 1996 (TAct). Because IDT has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

Given that IDT will not charge any customer deposits, we find reasonable IDT's request for a waiver of the requirement it post a surety bond to cover refund of deposits. We also find reasonable IDT'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, IDT states that it will charge access rates no higher than Verizon New Hampshire's effective access rates as filed in Tariff 85. 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 4 cents per access line per month.

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

IDT request and use numbers responsibly and conservatively, and invite IDT to explore alternative mechanisms to use existing numbers as efficiently as possible. In approving this application, we require IDT 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, IDT'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 IDT's request for a waiver of the map filing requirement in Puc 1304.02(a)(6) is GRANTED: and it is

FURTHER ORDERED, that IDT's request for waiver of the surety bond requirement per Puc 1304.02(b) is hereby GRANTED subject to IDT'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 IDT 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 February 17, 2003 and to be documented by affidavit filed with this office on or before March 3, 2003; 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 February 24, 2003; and it is

FURTHER ORDERED, that this Order Nisi shall be effective March 7, 2003, 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 seventh day of February, 2003.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary