

DT 03-233

COMTECH21, LLC d/b/a 21C-TECH, LLC

**Petition for Authority to Provide non-Facilities Based  
Local Telecommunications Services**

**Order Nisi Granting Authorization**

**O R D E R   N O.   24,283**

**February 20, 2004**

On December 22, 2003, the New Hampshire Public Utilities Commission (Commission) received an application to provide Competitive Local Exchange Carrier (CLEC) service in New Hampshire, pursuant to N.H. Admin. Code Rule Puc 1300 from ComTech21, LLC d/b/a 21C-Tech, LLC (21C-Tech or Petitioner). Pursuant to RSA 374:22-g, the Commission may authorize the provision local exchange telecommunications services by more than one entity in all telephone franchise areas served by a telephone utility that provides local exchange service and has more than 25,000 access lines.

21C-Tech, is a subsidiary of the Minervino Companies. The Petitioner has just begun the process of obtaining local exchange authority and has not yet been granted that authority in any state. On September 8, 2000, 21C-Tech was certified to provide intraLATA toll service in the State of New Hampshire under IXC No. 09-006-00.

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 21C-Tech's petition for compliance with these standards. Staff reports that 21C-Tech has provided all the information required by Puc 1304.02 and that the information provided supports 21C-Tech's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b)(2), (e), and (g). Staff further reports that adding 21C-Tech to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

21C-Tech requests a waiver of the surety bond requirement in Puc 1304.02(b). In support, 21C-Tech submitted a sworn statement averring that it does not require deposits or advanced payments from customers. Staff recommends granting the waiver.

21C-Tech also requests a waiver of Puc 1304.02(a)(6) which requires the filing of a U.S. Geological Survey-based map of the areas in which service will be offered. 21C-Tech avers that it will offer service only in those territories served by

Verizon New England d/b/a Verizon New Hampshire (Verizon). Maps of that territory are already on file with the Commission. Staff recommends granting the waiver.

We find that 21C-Tech has satisfied the requirements of Puc 1304.01(a)(1) and (2). We also find that granting 21C-Tech authority to operate as a CLEC 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 telephone company's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred.

21C-Tech attests it will not charge any customer deposits, advanced payments or prepayments. Based on this attestation, the Commission finds reasonable 21C-Tech's request for a waiver of Puc 1304.02(b) which requires a CLEC applicant to post a surety bond to cover refund of deposits and advanced payments. However, this waiver shall apply only so long as 21C-Tech does not require such deposits or payments. In the event 21C-Tech decides to change its policy on prepayments, it must immediately notify the Commission.

The Commission also finds reasonable 21C-Tech's request for a waiver of Puc 1304.02(a)(6) which requires a CLEC applicant

to file maps delineating the territory in which it intends to provide service based on its representation that its service will be offered in only those territories served by Verizon. With these conditions, we grant these waiver requests.

As part of its petition, 21C-Tech states that it will charge access rates no higher than Verizon'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. (Pub.L.No. 104-104, 110 Stat. 56, *codified* at 47 U.S.C. §151 *et seq.*)

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 per month. 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 increasing demand. Accordingly, we will require that 21C-Tech request and use numbers responsibly and conservatively, and we invite 21C-Tech to explore alternative mechanisms to use existing numbers as efficiently as possible. In approving this application, we require 21C-Tech 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 conditioned upon the effective date below, 21C-Tech's petition for authority to provide non-facilities based intrastate local exchange telecommunications services in the service territory of Verizon, is granted, subject to all relevant Commission rules and orders; and it is

**FURTHER ORDERED**, that 21C-Tech's request for waiver of the surety bond requirement per Puc 1304.02(b) is hereby granted subject to the condition that 21C-Tech not collect any deposit, prepayment or advance payment prior to the provision of service; and it is

**FURTHER ORDERED**, that 21C-Tech's request for a waiver of the map filing requirement in Puc 1304.02(a)(6) is granted; 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 or of circulation in those portions of the state where operations are conducted, such publication to be no later than March 1, 2004 and to be documented by affidavit filed with this office on or before March 15, 2004; and it is

**FURTHER ORDERED**, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than March 8, 2004; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than March 15, 2004; and it is

**FURTHER ORDERED**, that this Order Nisi shall be effective March 22, 2004, 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, pursuant to Puc 1304.03(a), the authority granted shall be deemed withdrawn, null, and void.

By order of the Public Utilities Commission of New Hampshire this twentieth day of February, 2004.

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Thomas B. Getz  
Chairman

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Susan S. Geiger  
Commissioner

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Graham J. Morrison  
Commissioner

Attested by:

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Lori A. Legerstee  
Assistant Secretary