

**DT 03-234**

**TSI TELECOMMUNICATION NETWORK SERVICES, INC.**

**Petition for Authority to Provide non-Switched,  
Private Line Local Telecommunications Services**

**Order Nisi Granting Authorization**

**O R D E R    N O.  24,306**

**April 2, 2004**

The petitioner, TSI Telecommunication Network Services, Inc. (TSI or Petitioner) filed with the New Hampshire Public Utilities Commission (Commission) on December 23, 2003 an application to provide private line Competitive Local Exchange Carrier (CLEC) service in New Hampshire pursuant to N.H. Admin. Rule Puc 1300. Pursuant to RSA 374:22-g, the Commission may authorize the provision of switched and non-switched 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.

TSI, a Delaware corporation, is a subsidiary of TSI Telecommunications Holdings, LLC. The Petitioner has just begun the process of obtaining local exchange authority where such authority is required to provide private line services.

Pursuant to N.H. Admin. Rule Puc 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 TSI's petition for compliance with these standards. Staff reports that the Petitioner has provided all the information required by Puc 1304.02 and that the information provided supports TSI'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 TSI to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

TSI states that it does not require deposits or advanced payments from customers. Therefore, Staff recommends that the Commission issue a waiver to Puc 1304.02(b).

TSI requests that it be granted authority to provide private line service state-wide. Staff avers that such authority cannot be granted. The territories of the several independent telephone companies are not open to competition in accordance with the provisions of Section 251 (f)(1) of the Telecommunications Act of 1996. (Pub.L.No. 104-104, 110 Stat. 56, codified at 47 U.S.C. §151 *et seq.*) TSI has submitted a copy of

a U.S. Geological Survey-based map of the entire state including the Verizon territories thereby meeting the requirement of Puc 1304.02(a)(6).

TSI requests a waiver of the basic service requirements of Puc 1306.01(a) on the grounds that TSI only seeks authority to resell private line, point-to-point transport services and has no plans to resell voice services. Staff recommends that the Commission grant that waiver.

We find that TSI has satisfied the requirements of Puc 1304.01(a)(1) and (2). We also find that granting TSI authority to operate as a non-switched 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.

TSI attests it will not charge any customer deposits, advanced payments or prepayments. The Commission, therefore, finds it reasonable to grant TSI 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 TSI does not require such deposits or

payments. In the event TSI decides to change its policy on prepayments, it must immediately notify the Commission.

We will grant TSI waivers to the basic service requirements of Puc 1306.01(a) given that the service TSI intends to provide does not include the services listed in that rule.

As part of its petition, TSI states that it will not charge access fees as it is not providing access to the public switched telecommunications network.

We grant TSI authority to provide non-switched (private line) service to end-users in the territories of Verizon. Should TSI modify its business plan in the future to include switched service, it must immediately notify the Commission and supplement its petition with information regarding advanced payment policies, number use, access charges and other details necessary for the provision of switched service.

**Based upon the foregoing, it is hereby**

**ORDERED NISI,** that conditioned upon the effective date below, TSI's petition for authority to provide non-switched intrastate local exchange telecommunications services is GRANTED only within the service territory of Verizon, subject to all relevant Commission rules and orders; and it is

**FURTHER ORDERED,** that a waiver of the surety bond requirement per Puc 1304.02(b) is hereby GRANTED on the condition

that TSI not collect any deposit, prepayment or advanced payment prior to the provision of service; and it is

**FURTHER ORDERED**, that TSI's request for a waiver of the basic service requirements described in Puc 1306.01(a), as conditioned above, 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 April 12, 2004 and to be documented by affidavit filed with this office on or before April 26, 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 April 19, 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 April 26, 2004; and it is

**FURTHER ORDERED**, that this Order Nisi shall be effective May 3, 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).

By order of the Public Utilities Commission of New Hampshire this second day of April, 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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Debra A. Howland  
Executive Director & Secretary