

**DT 04-081**

**NORTH ATLANTIC NETWORKS, LLC**

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

**Order *Nisi* Granting Authorization**

**ORDER NO. 24,415**

**December 29, 2004**

On May 13, 2004, North Atlantic Networks, LLC (NAN) filed with the New Hampshire Public Utilities Commission (Commission) an application to provide non-facilities based Competitive Local Exchange Carrier (CLEC) service in New Hampshire, pursuant to N.H. Administrative Rules Chapter 1300. Pursuant to RSA 374:22-g, the Commission may authorize the provision of intrastate 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.

NAN, a New Hampshire limited liability company, is owned by North Atlantic Internet Inc, LLC. NAN is authorized to provide local exchange service in Massachusetts.

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

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

NAN 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. NAN states 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.

NAN requests a waiver of the basic service requirements of Puc 1306.01(a) on the grounds that NAN intends to provide non-switched private line, point-to-point transport services and will not offer voice services. Staff recommends that the Commission grant the waiver on an interim basis, until NAN begins to provide service other than private line service.

We find that NAN has satisfied the requirements of Puc 1304.01(a)(1) and (2). We also find that granting NAN authority to operate as a CLEC in Verizon's territory, 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.

NAN attests it will not charge any customer deposits, including advance payments, and seeks waiver of Puc 1304.02(b) which requires a CLEC applicant to post a surety bond to cover refund of deposits and advance payments. A rule waiver is appropriate upon a determination by the Commission that such a waiver serves the public interest and will not disrupt the orderly proceeding of the Commission. Puc 201.05(a). Based on NAN's attestation and the fact that the waiver will not be disruptive, the Commission finds NAN's request for a waiver of Puc 1304.02(b) to be in the public interest and will grant the request. However, this waiver shall apply only so long as NAN does not require such deposits or advance payments. In the event NAN decides to change its policy on deposits and advance payments, it must immediately notify the Commission.

We find that filing a map is not necessary in these circumstances and therefore the public interest will be served by granting a waiver of Puc 1304.02(a)(6), provided that NAN offer its services only in those territories served by Verizon. Given that NAN intends only to provide private line service, the Commission also finds that granting NAN's request for waiver from the basic service requirements of Puc 1306.01(a) is in the public interest. Granting the waiver requests will not disrupt the orderly proceeding of the Commission and, therefore, we grant the waivers of Puc 1304.02(a)(6) and 1306.01(a).

We grant NAN authority to provide non-switched (private line) service to end-users in the territories of Verizon. Should the company modify its business plan in the future to include voice service, it must immediately notify the Commission and supplement its petition with information regarding advance 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, NAN's application for authority to provide non-facilities based local exchange telecommunications services, is GRANTED, limited to Verizon's service area and subject to all relevant Commission rules and orders; and it is

**FURTHER ORDERED**, that NAN's request for waiver of the surety bond requirement per Puc 1304.02(b) is GRANTED subject to the condition that NAN not collect any deposits, prepayments or advance payments prior to the provision of service; and it is

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

**FURTHER ORDERED**, that NAN's request for a waiver of the basic service requirements described in Puc 1306.01(a), as conditioned above, is GRANTED on an interim basis; and it is

**FURTHER ORDERED**, that NAN 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 January 10, 2005 and to be documented by affidavit filed with this office on or before January 28, 2005; 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 which states the reason and basis for a hearing no later than January 17, 2005 for the Commission's consideration; and it is

**FURTHER ORDERED**, that this Order *Nisi* shall be effective January 28, 2005, unless NAN 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 if NAN decides to expand its service offering to include voice service it shall file a supplement to its application; and it is

**FURTHER ORDERED**, that, should NAN 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; and it is

**FURTHER ORDERED**, that NAN, no less than ten days prior to commencing service, 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).

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of December, 2004.

---

Thomas B. Getz  
Chairman

---

Graham J. Morrison  
Commissioner

---

Michael D. Harrington  
Commissioner

Attested by:

---

Kimberly Nolin Smith  
Assistant Secretary