

# Synergies Law Group, PLLC

May 12, 2009

## VIA ELECTRONIC MAIL

Debra A. Howland, Executive Director  
New Hampshire Public Utility Commission  
21 South Fruit Street, Suite 10  
Concord, NH 03301-2429



Re: **Docket No. 09-048**  
Response to IDT May 12<sup>th</sup> Supplement to the Record

Dear Director Howland:

Union Telephone Company ("Union") hereby wishes to clarify information contained in the May 12<sup>th</sup> supplement of IDT America, Corp. ("IDT"). In the supplement, IDT cites section 47 C.F.R. § 51.301(a) but clips the regulation mid-sentence. The section in full reads:

An incumbent LEC shall negotiate in good faith the terms and conditions of agreements to fulfill the duties established by sections 251 (b) *and (c) of the Act.*<sup>1</sup>

To date, IDT has attempted to have interconnection imposed upon Union using only Section 251(a) and 251(b). But the language concerning the duty to negotiate in good faith is contained in Section 251(c). Section 251 (f) states:

Subsection [251](c) of this section shall not apply to a rural telephone company until (i) such company has received a bona fide request for interconnection, services or network elements, and (ii) the State commission determines...that such request is not unduly economically burdensome, is technically feasible, and is consistent with section 254 of this title....

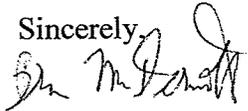
The fact that IDT is attempting to use 251(c) to buttress their claims underlines a point made by the North Dakota Commission in Union's supplemental response filed earlier today: that it is impossible to force interconnection negotiations under sections 251(a) and 251(b) without evoking the entire Section.

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<sup>1</sup> 47 C.F.R. § 51.301(a)(*Emphasis added*).

Pursuant to the Commission's rules on paper copies, an original and seven (7) copies of this letter are being submitted. Please date stamp and return the enclosed extra copy of this filing. Please contact the undersigned if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian McDermott". The signature is written in a cursive style with a large initial "B" and "M".

Brian McDermott  
Edward S. Quill, Jr.

Counsel for Union Telephone Company

cc: Service List