

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 10-183

**GRANITE STATE TELEPHONE, INC., DUNBARTON TELEPHONE, INC.,
BRETTON WOODS TELEPHONE, INC., AND DIXVILLE TELEPHONE COMPANY**

**Petition by Certain Rural Telephone Companies Regarding
CLEC Registrations within Their Exchanges**

ORDER OF NOTICE

On July 13, 2010, incumbent local exchange carriers (ILECs) Granite State Telephone, Inc., Dunbarton Telephone, Inc., Bretton Woods Telephone, Inc., and Dixville Telephone Company (collectively the Rural ILECs or Petitioners) filed with the Commission a petition challenging certain registrations granted by the Commission purporting to authorize competitive local exchange carriers (CLECs) to engage in business as telephone utilities within the Rural ILECs' service territories as part of their authorizations to operate statewide. The Petitioners contend that the registrations were not authorized by the process found necessary by the New Hampshire Supreme Court in *Appeal of Union Telephone Company d/b/a Union Communications*, 161 N.H. __ (decided May 20, 2010). The Rural ILECs seek an order declaring that the authorizations to operate within the Rural ILECs' service territories are to be rescinded or that they are null and void.

The Rural ILECs are rural telephone public utilities operating in designated franchise service territories within New Hampshire. In December 2008, the Rural ILECs became aware that a CLEC had requested authorization to provide telephone services throughout the state, including within the Rural ILECs' service territories. After the Commission granted that

authorization the New Hampshire Telephone Association, on behalf of the Rural ILECs, stated to the Commission that it believed the authorization was improperly granted because it did not comport with certain state statutory requirements, *see* RSA 374:26, 374:22-g, and 374:22-e. Subsequently, in *Appeal of Union Telephone Company d/b/a Union Communications*, 161 N.H. ___ (decided May 20, 2010), the New Hampshire Supreme Court determined that the authorizations obtained by CLECs to operate in the territories of certain ILECs similar to the Petitioners were not granted in accordance with state statutory requirements. The Supreme Court, however, remanded the matter to the Commission to determine whether the state statutory requirements are preempted by federal law.

Following the Supreme Court's opinion, the Rural ILECs filed the instant petition contending that any authorizations allowing CLECs to operate in their service territories that were granted without following the requirements of state law are null and void, and that the requirements of state law are not preempted by federal law. The Rural ILECs note that this petition follows a similar petition that targeted the CLEC registration granted to segTEL, Inc., *see* Docket No. DT 09-198, but that this petition is intended to apply to any CLEC having been granted authorization without the process under state law deemed necessary by the Supreme Court. On July 28, 2010, Staff filed a memorandum that, among other things, recommended that iNetworks Group, Inc., AccessPlus Communications, International Network Solutions, LLC, segTEL, Inc., and Light Tower Fiber, LLC, be included in this docket since they have all been granted the statewide certifications now challenged by the Rural ILECs. Staff also recommended that Docket No. DT 09-198 be dismissed without prejudice as being superseded by the instant filing.

The filing raises, inter alia, issues related to the requirements for registration of CLECs under state law and the degree to which that process is preempted by federal law. Each party has the right to have an attorney represent them at their own expense.

Based upon the foregoing, it is hereby

ORDERED, that a Prehearing Conference, pursuant to N.H. Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on September 2, 2010 at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Admin. Rule Puc 203.15 shall be considered; and it is

FURTHER ORDERED, that, immediately following the Prehearing Conference, the Petitioners, Staff of the Commission and any Intervenors hold a Technical Session to review the petition and allow the Petitioners to provide any amendments or updates to its filing; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.12, the Petitioners shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than August 12, 2010, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before September 2, 2010; and it is

FURTHER ORDERED, that the Petitioners shall mail a copy of this Order of Notice to iNetworks Group, Inc., AccessPlus Communications, International Network Solutions, LLC, segTEL, Inc., and Light Tower Fiber, LLC by August 19, 2010.

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a Petition to Intervene with copies sent to Rural ILECs and the Office of the Consumer Advocate on or

before August 30, 2010, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Admin. Rule Puc 203.17 and RSA 541-A:32,I(b); and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said Objection on or before September 2, 2010; and it is

FURTHER ORDERED, that Docket No. DT 09-198 is hereby dismissed, without prejudice.

By order of the Public Utilities Commission of New Hampshire this fifth day of August, 2010.



Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability, should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.