

STATE OF NEW HAMPSHIRE
Before The
PUBLIC UTILITIES COMMISSION

New Hampshire Code of Administrative Rules
- Part Puc 400, Rules for Telephone Service

DRM 12-036

**Comments of AT&T Corp. on the New Hampshire Public Utilities Commission's
Proposed Changes to Chapter Puc 400—Rules for Telecommunications**

AT&T Corp. (“AT&T”) submits the following comments on the New Hampshire Public Utilities Commission’s (“Commission”) Proposed Changes to Chapter Puc 400—Rules for Telecommunications. Pursuant to the schedule established by the Commission, written comments are due on November 7. AT&T will not discuss its proposed modifications to each of the proposed rules in its written comments, but has attached a red-lined version of the rules which reflects the general changes that are discussed.¹ AT&T respectfully submits the following comments on the Commission’s proposed rules.

Applicability of the Rules Section 401.02, the section that deals with the application of the rules, should be clarified with explicit language that Puc 400 does not apply to commercial mobile radio communications providers. Proposed Puc 401.02 states that “[p]arts 401 through 409 of this chapter shall apply to all telephone utilities except to the extent preempted by the Telecommunications Act of 1996.” The proposed rules also create a new definition of “telephone utility” in proposed Rule 402.21 which appears to be modeled on the definition of “public utility” in Section 362:2. By creating a definition of “telephone utility” in the administrative rules with very broad wording, the rules could arguably later be construed to

¹ AT&T has not submitted comments on each of the proposed rules. The fact that AT&T has not commented on a particular rule should not be construed as support for a proposed change to that rule.

apply to wireless. To avoid any possible confusion on the applicability of the rules, Section 402.02 should be modified to state explicitly that, pursuant to RSA 362:6, the rules do not apply to wireless providers.

The proposed rule states that “[t]hese rules do not apply to VoIP and IP enabled services pursuant to RSA 362:7.” A similar sentence should be added that states that “[t]hese rules do not apply to commercial mobile radio communications providers or services pursuant to RSA 362:6.”²

Registration of ELECs Proposed Rule 404.01 addresses the registration of telephone utilities previously authorized by the Commission to provide services in New Hampshire. According to the proposed rule, each entity registered as a CLEC “whose registered services do not include voice service” shall be notified that it does not need an ELEC registration and that its CLEC authorization shall expire. This proposed rule could have unintended consequences in terms of an entity not providing voice service being unable to obtain telephone numbers, have access to the right of way and perhaps other similar sorts of issues. RSA 362:7(I)(c)(3) includes “any provider of telecommunications services that is not an incumbent local exchange carrier” within the definition of an “excepted local exchange carrier.” To the extent that an entity continues to provide “telecommunications services,” it should be permitted to be an ELEC. This approach is consistent with the rest of proposed Rule 404.1 in that the Commission would not limit ELEC status to providers of local exchange services, but is including competitive toll

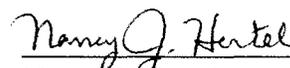
² If the Commission does not adopt the suggestion to put in a statement at the beginning of the rules clarifying that the rules do not apply to wireless providers, then other changes would need to be made to the rules. See e.g., Proposed 402.24, which defines voice service to mean “the conveyance of telephone messages for the public, excluding IP-enabled service and voice over internet protocol service...” If a new statement is put in Section 402.02 stating that the rules do not apply to wireless providers, revisions to 402.24 would be unnecessary. If, however, Section 401.02 is not modified to exclude wireless carriers specifically, then 402.24 would need to be modified to exclude wireless providers. The attached redline submitted by AT&T does not include the changes that would need to be made if the Commission does not adopt AT&T’s proposed language in Section 401.02.

providers within the ELEC designation. Providers of telecommunications services that offer wholesale telecommunications services should also be permitted to hold an ELEC certificate.

Rules Applicable to ELECs that were Formerly Classified as IXC's. RSA

362:7(I)(c)(3) categorizes “any provider of telecommunications services that is not an incumbent local exchange carrier” as an ELEC. Some providers may be providing toll services only to an end user and not be providing local exchange service. Some of the rules need to be modified because they appear to be based on the premise that the ELEC will always be providing local exchange service. For example, Proposed Rule 404.10 requires ELECs and ILECs to collect and remit 911 surcharges. To the extent that an ELEC is not providing local service, it will not provide 911 service to its end user customer. Another example is Proposed Rule 405.05 on Number Portability. The proposed rule would require ELECs and ILECs to provide 10 days’ notice to a customer before terminating telephone service. The rule goes on to provide that the notice “shall include a description of the process by which the customer may transfer the telephone number to another provider.” If the ELEC does not provide local service to the customer, it could be confusing to the customer to suggest that the customer could port the number from the ELEC (not the customer’s local exchange carrier) to another local exchange carrier.

Respectfully submitted,


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