

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

**DATE:** April 14, 2008  
**AT (OFFICE):** NHPUC

*David*

**FROM:** David Goyette, Utility Analyst III - Telecommunications

**SUBJECT:** DT 08-028 TDS Telecom Companies  
Joint Petition for Authority to Block the Termination of Traffic from  
Global NAPs Inc.

**TO:** Commissioners  
Debra Howland, Executive Director  
Donald Kreis, General Counsel

On February 19, 2008, Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company, Inc. ("TDS Telecom Companies") jointly filed a petition for authority to block the termination of traffic from Global NAPs Inc. (GNAPs). In its petition, TDS alleges that GNAPs is not paying to terminate its access traffic in TDS territories and owes TDS \$192,644.25 for engaging in this activity from February 2003 to January 2008. TDS seeks relief, asking the Commission to grant it authority to block any further termination of GNAPs traffic in TDS exchanges, to provide other such relief as the Commission may deem appropriate, and to schedule this matter for hearing and resolution.

On March 3, 2008, Staff filed a memorandum recommending the Commission forward the TDS filing to GNAPs and request a response pursuant to RSA 365:2. The Commission accepted Staff's recommendation and, on March 3, 2008, forwarded TDS's complaint to GNAPs, requesting a response by March 13, 2008.

On March 19, 2008, GNAPs filed a motion to accept its late-filed answer to the TDS complaint. In its motion, GNAPs asserted, among other things, that the traffic in question is exclusively interstate in nature, that traffic originating in TDS territory was in-bound Internet Service Providers ("ISP") traffic and that traffic terminating in TDS territory is from enhanced service providers.<sup>1</sup> GNAPs denied the allegations and most of the facts set forth in TDS's complaint, asserting that the N.H. Commission's jurisdiction is limited to local and intrastate traffic, while the traffic at issue - to ISPs and from enhanced service providers - is subject to the exclusive and sole jurisdiction of the FCC.

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<sup>1</sup> 47 CFR § 64.702 (a) defines enhanced service as "services, offered over common carrier transmission facilities used in interstate communications, which employ computer processing applications that act on the format, content, code, protocol or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. Enhanced services are not regulated under Title II of the Act."

Staff has reviewed the allegations submitted by TDS as well as the defenses asserted by GNAPs, and finds that the issues raised, including certain disagreements regarding facts, merit further investigation.

Questions raised by the filing include, *inter alia*:

- 1) What is the exact type of traffic involved?
- 2) How, and to what extent, does the traffic make use of TDS facilities?
- 3) Are there any relevant agreements in effect between the parties and, if not, should there be?
- 4) Is TDS entitled to compensation for termination of the traffic at issue and, if so, in what form?
- 5) Does this Commission have jurisdiction over the traffic at issue?
- 6) Should TDS be granted authority to block GNAPs traffic?
- 7) What other recourse, if any, is available to TDS?

Staff recommends that the Commission schedule a pre-hearing conference, at which the parties address the above questions in preliminary position statements, to be followed immediately by a technical session to develop a procedural schedule and to address any administrative issues appropriate for resolution at the onset of this proceeding.