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VIA ELECTRONIC MAIL & FIRST-CLASS POSTAGE PREPAID

July 18, 2008

Ms. Debra Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord, NH 03301



**Re: DT 08-028 (Joint Petition of Hollis Telephone Company, Inc., et al.)
– Joint Petitioners' Opposition to GNAPs' Request for Hearing**

Dear Ms. Howland:

I write on behalf of Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, Inc., and Wilton Telephone Company, Inc. (the "Joint Petitioners") to respond to the request of Global NAPs, Inc. (the "Respondent" or "GNAPs"), for a hearing on the issue of a supposed factual dispute that has arisen in this matter. The Joint Petitioners do not believe a hearing is necessary on this issue, as the alleged fact in question is not material to the Joint Petitioners' claims and does not require adjudication by the Commission as a prerequisite to granting in full the relief sought by the Joint Petitioners.

In a Secretarial Letter dated May 20, 2008, you established a Procedural Schedule for this docket that provided for two rounds of discovery among the parties, a Technical Session for the purpose of developing a Stipulation of Facts, and a schedule for Briefs prior to final action by the Commission. The Procedural Schedule does not contemplate any further hearings in this matter. The Parties have completed Discovery in the matter (other than resolution of any Motions to Compel), participated in a Technical Session last Wednesday, July 9, 2008, and developed a proposed Stipulation of Facts that is still being circulated for comment prior to its submission to the Commission. Absent a material dispute of fact, the Parties are expected to submit legal briefs to the Commission on or before August 1, 2008.

During the present comment period by the Parties concerning the proposed Stipulation of Facts, one of the intervenors, Union Telephone Company, Inc. ("Union Tel"), raised an objection to the inclusion of alleged "Fact #9" in the proposed Stipulation. Fact #9 reads, in its entirety, "Global NAPs does not originate traffic." In response to Union Tel's objection, the Joint Petitioners reviewed the call detail records that they previously provided as Data Responses and, upon

finding evidence supporting Union Tel's objection, the Joint Petitioners concurred in Union Tel's objection. Consequently, the Director of the Legal Division notified the parties that Fact #9 would be stricken from the Stipulation based on the lack of consensus among the Parties. The Respondent has now requested a hearing to resolve what it characterizes as a "factual dispute" that it contends must be resolved prior to the submission of legal briefs in this matter.

The Joint Petitioners do not believe the factual issue requires a hearing or adjudication prior to the submission of legal briefs. It is immaterial to the Joint Petitioners' claims that the Respondent either does or does not originate traffic. The Commission can and should grant the full relief requested by the Joint Petitioners without any need to determine whether the Respondent originates traffic.

The Joint Petitioners supported the deletion of Fact #9 from the proposed Stipulation based on their possession of record evidence tending to disprove the accuracy of Fact #9. The Joint Petitioners have not requested, nor do they request, that the proposed Stipulation include an *affirmative* statement that Respondent *does* originate traffic. Rather, the Joint Petitioners have simply supported the deletion of the *negative* statement that the Respondent *does not* originate traffic. In the Joint Petitioners' view, the evidence on the question is ambiguous and so the Stipulation should simply be silent on the issue. Silence on that factual question more accurately reflects the Joint Petitioners' position that the issue is irrelevant and immaterial to the resolution of their claims in this matter. From the Joint Petitioners' perspective, deletion of Fact #9 simply eliminates an extraneous matter that might have distracted the Commission but would make no difference to the outcome of the docket in any event.

Accordingly, the Joint Petitioners agree with the decision of the Director of the Legal Division simply to eliminate the extraneous matter from the proposed Stipulation based on the lack of consensus of the Parties. Elimination of the proposed Fact does not raise a material factual dispute for the Commission to resolve, and so there is no need for the Commission to conduct a hearing on the question.

Please let me know if you have any questions.

Sincerely,



Paul J. Phillips
Counsel for the Joint Petitioners

cc: Service List, DT 08-028
Michael C. Reed, TDS Telecom

State of New Hampshire
Before the New Hampshire Public Utilities Commission

DT 08-028

Joint Petition of Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company, Inc., for Authority to Block the Termination of Traffic from Global NAPs, Inc., to Exchanges of the Joint Petitioners in the Public Switched Telephone Network

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