

THE STATE OF NEW HAMPSHIRE

BEFORE THE NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DOCKET NO. DT 08-028

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

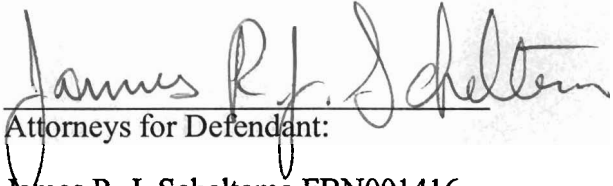


**MOTION OF GLOBAL NAPS, INC.
TO ACCEPT THE LATE FILED ANSWER TO JOINT PETITIONERS
REQUEST FOR AUTHORITY TO BLOCK THE TERMINATION OF TRAFFIC
FROM GLOBAL NAPS, INC. TO EXCHANGES OF THE JOINT PETITIONERS
ON THE PUBLIC SWITCHED TELEPHONE NETWORK**

Defendant Global NAPS, Inc. ("Global") respectively moves to accept the attached late filed response due to scheduling oversights on its part which presented conflicts in the ability of counsel to make a timely filing in the above matter. An error was made in not adding the appropriate due date on the events/filings calendar, and as a result Global NAPS, Inc.'s General Counsel was unaware of the filing. Global asserts that there is no prejudice to the parties, by accepting the late filing if served on March 18, 2008 with the Clerk and by e-mail and via first class mail to the parties.

NHPUC MAR19'08 PM12:59

Respectfully submitted,



Attorneys for Defendant:

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March 18, 2008

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GLOBAL ANSWER TO JOINT PETITION

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Termination of Traffic from Global NAPs, Inc., to)
Exchanges of the Joint Petitioners on the Public)
Switched Telephone Network)

GLOBAL ANSWER TO JOINT PETITION

Defendant Global NAPs, Inc. ("Global") hereby answers the Joint Petition of Hollis Telephone Company, Inc., Kearsarge Telephone Company, Merrimack County Telephone Company, and Wilton Telephone Company Inc., ("Joint Petitioners") for Authority to Block the Termination of Traffic from Global NAPs, Inc., to Exchanges of the Joint Petitioners on the Public Switched Telephone Network (collectively referred to as "TDS"). Global reserves the right to amend, add or delete portions of this Answer or affirmative defenses resulting from information provided by FDN through investigation and discovery.

PETITION

1. The allegations contained Paragraph 1 of the Petition state legal or other conclusions that do not require a response. Accordingly, they are denied. Further, and specifically with respect to the jurisdiction of the New Hampshire Public Utilities Commission, the Commission is not empowered to make determinations that may otherwise restrict interstate commerce on traffic that is subject to the exclusive jurisdiction of the FCC, such as traffic to Internet Service Providers and traffic from Enhanced Service Providers. Such is the traffic that Global exchanges with TDS.

INTRODUCTION

2. The allegations contained Paragraph 2 of the Joint Petition state legal or other conclusions that do not require a response. To the extent that any invoices were received from the TDS Telecom Companies, Global has or is by this answer objecting to such charges as inapplicable to the traffic exchanged and as such the underlying validity of the claim(s) asserted are, accordingly, denied, as should be its request(s) delineated in paragraph 3.
3. The requests for relief contained Paragraph 3 of the Joint Petition state legal or other conclusions and/or otherwise do not require a response.

PARTIES

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4. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Joint Petition.
5. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Joint Petition.
6. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Joint Petition.
7. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Joint Petition.
8. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Joint Petition.
9. Admit.
10. Global admits that it has authority to operate as an “interexchange carrier” but denies that it is providing interstate and intrastate toll services in the State of New Hampshire.
11. Global denies that it is operating as an intrastate toll provider or providing IntraLATA toll services in the State of New Hampshire.
12. The allegations contained Paragraph 12 of the Joint Petition state legal or other conclusions that do not require a response.
13. Admit A and C. B is denied. In lieu of respondent B, William Rooney, Vice President & General Counsel of Global NAPs, Inc. and a member of the New Hampshire Bar has a business address of 89 Access Road, Suite B, Norwood, MA 02062.

JURISDICTION

14. Denied. The NHPUC’s jurisdiction is limited to local and intrastate traffic. Global exchanges traffic which is exclusively interstate in nature. Traffic originating from TDS companies is in-bound ISP traffic and traffic terminating to TDS is Enhanced Service Provider traffic. Both are subject to the sole and exclusive jurisdiction of the FCC. The most recent decisions at the 8th Circuit and a later clarification by a Nebraska federal court confirm such jurisdiction and the impossibility of a carrier to practically segregate inter versus intrastate even should this Commission desire to do so as Petitioners have suggested.
15. Denied. Global NAPs, Inc. has no interconnection with TDS, nor does it have an agreement to do so in effect.
16. Denied. The division of traffic into local or interexchange overlooks the classification of ISP-bound traffic. The further depiction of traffic as discussed envisions that interexchange traffic must be only toll which contradicts the preempting federal law applicable to enhanced service provider traffic.
17. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Joint Petition.
18. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Joint Petition.
19. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Joint Petition.
20. Denied. Global NAPs, Inc. transports traffic to Fairpoint Communications, successor in interest to Verizon. To the best of my knowledge and understanding, no traffic has been delivered to a TDS company by Global NAPs, Inc.

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- 21. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Joint Petition.
- 22. Denied. TDS indicates that charges to Global include inapplicable charges, e.g., access.
- 23. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23 of the Joint Petition.
- 24. Denied. Global NAPs, Inc. traffic is Internet traffic not subject to access charges. Toll charges are not assessed on customers, thus the traffic is not "toll".
- 25. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25 of the Joint Petition.
- 26. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the Joint Petition. Global admits that there is an ongoing dispute.
- 27. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the Joint Petition.
- 28. Global denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Joint Petition.
- 29. Denied.
- 30. Admit that a letter was sent to a past employee of Global NAPs, Inc.

VIOLATION

- 31. Denied.
- 32. A., B. & C. Denied.
- 33.
 - a. Denied. The NHPUC does not have jurisdiction to regulate enhanced service provider traffic, as determined by the Minnesota Federal District Court.
 - b. Denied.
 - c. Denied.
 - d. Denied.

WHEREFORE, Global NAPs, Inc. requests a dismissal of Petitioner's Requests for Relief in their entirety and a referral to the appropriate forum of primary jurisdiction, the Federal Communications Commission, to make such legal and other determinations necessary to decide matters regarding interstate traffic over which it has sole and exclusive jurisdiction.

In answering the Amended Complaint, Global NAPs identifies its attorneys and representatives as follows:

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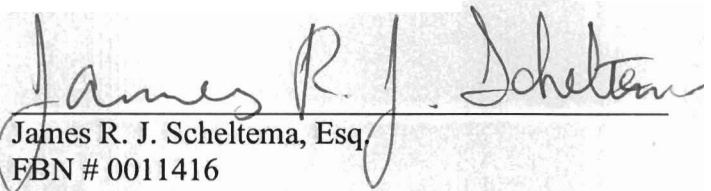
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Affirmative Defenses

1. The Complaint fails to state a claim upon which relief can be granted.
2. The Court lacks jurisdiction over the subject matter of this action.
3. Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver, laches, estoppel and unclean hands.
4. Plaintiff's claims are subject to set-off.
5. Plaintiff's claims are barred by the filed rate (a/k/a "filed tariff") doctrine as its right to payment arises, if at all, only from tariff and not under state contract law,
6. Plaintiff's claims are barred by the doctrines of mutual and unilateral mistake.

Dated: March 18, 2008

Global NAPs, Inc.

By: 

James R. J. Scheltema, Esq.
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 VP – Global NAPs, Inc.
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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing document by serving a copy thereof, by hard copy first class mail, postage prepaid or by e-mail as indicated to the following:

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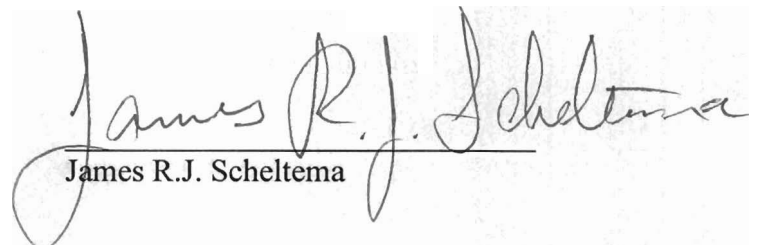
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