

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

**DT 12-308**

**COMCAST PHONE OF NEW HAMPSHIRE, LLC AND COMCAST IP PHONE II, LLC**

**Application of Laws of 2012, Chapter 177 (Senate Bill 48) to VoIP and IP-Enabled Services**

**ORDER OF NOTICE**

On May 22, 2012, the New Hampshire Supreme Court accepted the appeal of Comcast Phone of New Hampshire, LLC and Comcast IP Phone II, LLC (Comcast) from certain decisions made by the New Hampshire Public Utilities Commission (Commission) in Docket No. 09-044. On October 12, 2012, the Court denied Comcast's motion to vacate orders under review as moot. In addition, the Court remanded the case to the New Hampshire Public Utilities Commission (Commission) for the limited purpose of reconsidering Commission Order No.s 25,262 and 25,274 and related orders in DT 09-044 in light of Laws of 2012, Chapter 177 (SB 48). The appeal is held in abeyance pending completion of the proceedings on remand.

The Commission opened Docket No. 09-044 to consider a petition by certain rural local exchange carriers of the New Hampshire Telephone Association (RLECs) for an investigation into the regulatory status of fixed IP-enabled cable voice services. The Commission ruled in Order No. 25,262 (August 11, 2011) that the fixed IP-enabled cable voice service offered by Comcast and TWC Digital Phone LLC (Time Warner) (in particular, Comcast Digital Voice and Time Warner's Digital Phone and Business Class Phone) is a utility service that falls under the jurisdiction of the Commission pursuant to RSA 362:2 (definition of "public utility"), with Comcast and Time Warner being subject to limited regulation as competitive local exchange carriers (CLECs). The Commission further ruled that state regulation of Comcast and Time

Warner cable voice services is not preempted by federal law nor does the regulation of these companies as CLECs involve discriminatory or burdensome economic regulation that would inhibit the development of a competitive market or conflict with federal law.

In Order No. 25,274 (September 28, 2011) the Commission denied Comcast's motion for rehearing and suspension of Order No, 25,262 and its motion to reopen the record of DT 09-044. On November 10, 2011, the Commission issued Order No. 25,288 which denied Comcast's motions for reconsideration of Order No. 25,274, but granted for a limited time a waiver of certain of the Commission's rules governing CLECs as applied to Comcast.

Reconsideration as ordered by the Court involves the Commission's review and determination of legal issues without further fact-finding. Because this will likely be the first time the Commission issues a ruling in a dispute regarding SB 48's effect on Commission regulation and because there could be benefit from hearing the views of other parties in making a decision, the Commission will, in addition to the parties to DT 09-044, permit other interested parties to participate in the Commission's reconsideration proceeding on a limited basis under the terms set forth in this order. Accordingly, the following procedural schedule is established:

Deadline for publication of order of notice by Comcast	October 29, 2012
Deadline for filing of written briefs by parties to DT 09-044 and other interested parties	November 9, 2012
Oral argument on briefs by parties to DT 09-044	November 16, 2012 at 10 am at the Commission offices

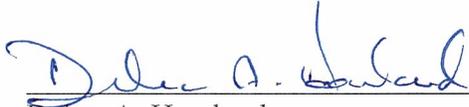
Subsequent docket filings will be posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/docketbk-2012.html>. Each participant has the right to have an attorney represent it at its own expense.

The issues to be addressed in the written briefs and oral argument include those related to (i) whether cable voice service under review in DT 09-044 falls within the statutory definition of “VoIP service” or “IP-enabled service” in RSA 362:7, I(d) and (e), (ii) whether, in light of the enactment of SB 48, any changes are required to be made or should be made to any of the findings and rulings in Order No.s 25,262, 25,274 or 25,288, including the question of whether SB 48 affects the definition of “public utility” in RSA 362:2 and whether and to what extent regulatory treatment of Comcast and Time Warner as CLECs in respect to their cable voice services is still appropriate, (iii) what areas of state regulation of CLECs described in such orders no longer apply as a result of the enactment of SB 48, (iv) whether, in light of the nature and purpose of DT 09-044, SB 48 renders the Commission’s previous findings and rulings legally insignificant and practically meaningless for the State of New Hampshire or Comcast, Time Warner or other providers of VoIP service or IP enabled service, and (v) whether SB 48 eliminated the significance of the Commission’s determination that fixed IP-enabled cable voice service is a “public utility” service under state law by removing any regulatory obligations that depend on that determination.

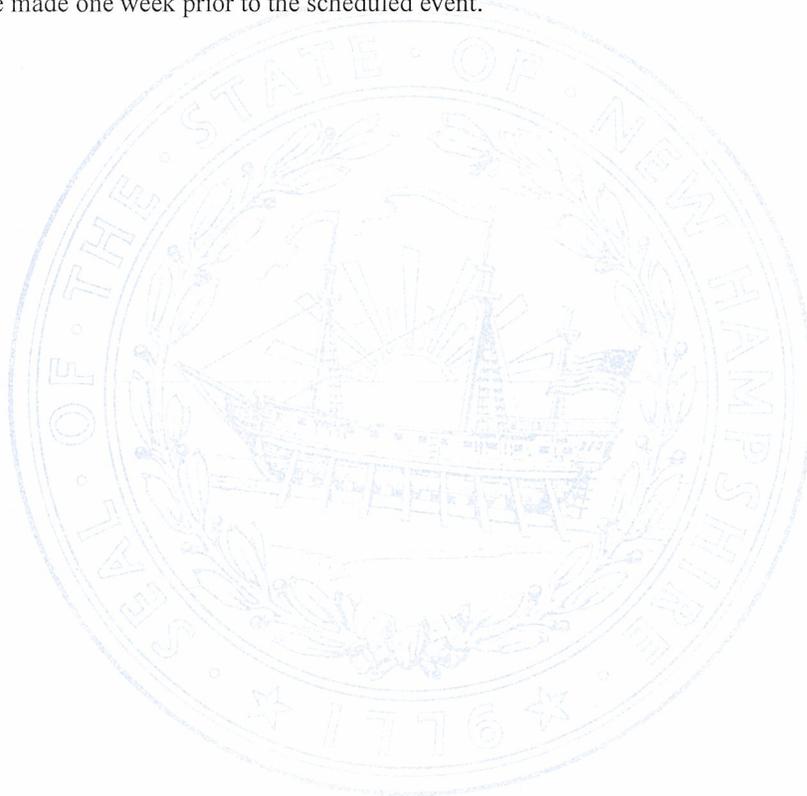
**Based upon the foregoing, it is hereby**

**ORDERED**, that pursuant to N.H. Code Admin. Rules Puc 203.12, Comcast shall notify all persons desiring to be heard as set forth in the procedural schedule by (i) forwarding a copy of this order of notice forthwith to all parties in DT 09-044 and (ii) publishing a copy of this Order of Notice no later than October 29, 2012, in a newspaper with general circulation in those portions of the state in which operations are conducted, such notification and publication to be documented by affidavit filed with the Commission on or before November 2, 2012.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of  
October, 2012.

  
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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.



**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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Docket #: 12-308-1      Printed: October 25, 2012

**FILING INSTRUCTIONS:**

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND  
EXEC DIRECTOR  
NHPUC  
21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.

DT 12-308

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