

Orr&Reno

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November 13, 2013

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Via U.S. Mail

Eileen Fox, Clerk
 New Hampshire Supreme Court
 One Charles Doe Drive
 Concord, NH 03301

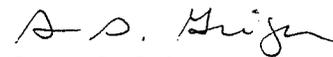
**Re: Case No. 2011-0762, Appeal of Comcast Phone
 of New Hampshire, LLC & a.**

Dear Clerk Fox:

Enclosed for filing with the Court in the above-captioned matter please find an original and one copy of Comcast's Motion for Leave to Withdraw Appeal.

Please contact me if there are any questions about this matter. Thank you or your assistance.

Very truly yours



Susan S. Geiger
 NH Bar #925

SSG/lbr

cc: Harry Malone, Esq.
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Eileen Fox, Clerk
November 13, 2013
Page 2 of 2

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THE STATE OF NEW HAMPSHIRE

SUPREME COURT

2013 TERM

Case No: 2011-0762

**Appeal of Comcast Phone of New Hampshire, LLC and
Comcast IP Phone II, LLC**

MOTION FOR LEAVE TO WITHDRAW APPEAL

NOW COME Comcast Phone of New Hampshire, LLC and Comcast IP Phone II, LLC (collectively “Comcast”), by and through their undersigned attorneys, and respectfully move this honorable Court for permission to withdraw Comcast’s Appeal by Petition without prejudice. In support of this Motion, Comcast states as follows:

1. Comcast’s Appeal by Petition filed October 28, 2011 challenges orders issued by the New Hampshire Public Utilities Commission (“the Commission”) regarding the regulatory treatment of Voice over Internet Protocol (“VoIP”) service. Among other things, Comcast’s Appeal by Petition presents the question of whether VoIP service constitutes public utility service under RSA 362:2. With the recent enactment of New Hampshire Laws of 2013, Chapter 279, Section 4, the New Hampshire Legislature has clearly established that “VoIP services and IP-enabled services are not public utility services and a provider of VoIP service or IP-enabled service is not a public utility under RSA 362:2...and shall not be regulated as a public utility in any manner other than as set forth in paragraph III.” RSA 362:7, II.

2. The Commission has recognized that under the aforementioned new statute, Comcast IP Phone II, LLC is not a public utility and VoIP and IP-enabled

services are not public utility services, and that this recent change in state law has resolved the central issues in Comcast's New Hampshire Supreme Court appeal. *Comcast Phone of New Hampshire, LLC and Comcast IP Phone II, LLC*, NH PUC Docket No. DT 12-309, Order No. 25,571 (Sept. 13, 2013) at 3.

3. In view of the foregoing, Comcast respectfully submits that it is no longer necessary to pursue its appeal of the Commission's orders relating to the regulatory treatment of VoIP services. Accordingly, Comcast respectfully requests that it be permitted to withdraw its Appeal by Petition without prejudice.

4. The first undersigned counsel below has contacted opposing counsel, Attorney Harry Malone, who assents to the relief sought herein.

WHEREFORE, Comcast respectfully requests that this honorable Court:

- A. Issue an order allowing Comcast to withdraw its Appeal by Petition without prejudice; and
- B. Grant such further relief as it deems appropriate.

Respectfully submitted,

Comcast Phone of New Hampshire, LLC
And Its Affiliates
By its Attorneys
Orr & Reno, P.A.
45 South Main Street
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November 13, 2013

By: 
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Certificate of Service

I hereby certify that a copy of the foregoing Motion has on this 13th day of November, 2013 been sent by first class mail, postage prepaid, to the parties.

Susan S. Geiger
Susan S. Geiger

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