

DT 99-067

LOCAL NUMBER PORTABILITY

**Implementation of §251(b) of the Telecommunication Act of 1996
Order Rescinding Order No. 23,210 for Union Telephone Company**

O R D E R N O. 23,321

October 12, 1999

On May 10, 1999, the New Hampshire Public Utilities Commission (Commission) issued Order No. 23,210 Nisi ordering full implementation of permanent local number portability (LNP) by incumbent and competitive local exchange carriers (ILECs and CLECs, respectively) by October 31, 1999.

On May 27, 1999, Granite State Telephone Company, Inc. (GST), Merrimack County Telephone Company, Contoocook Valley Telephone Company, Inc., Wilton Telephone Company, Inc., Hollis Telephone Company, Inc., Dunbarton Telephone Company, Inc., Northland Telephone Company of Maine, Inc., Bretton Woods Telephone Company, Inc., and Dixville Telephone Company (hereinafter GST, *et al.*) filed an Objection to the Order Nisi and requested a hearing with the Commission. On the same date, May 27, 1999, Chichester Telephone Company, Meriden Telephone Company, and Kearsarge Telephone Company ("the TDS Companies") filed Comments with the Commission.

On June 14, the Commission issued Order No. 23,233 temporarily suspending the effective date of Order Nisi No. 23,210 with respect to the above-referenced companies. The

Commission further ordered that Staff conduct an investigation of the issues raised in the Comments and Objection to the Commission's order and report its findings to the Commission by July 16, 1999.

On August 23, 1999 the Commission issued Order No. 23,290 rescinding Order No. 23,210 for GST *et al.* and the TDS Companies. The Commission further ordered that the existing FCC and PUC rule with respect to number portability would continue to apply to these companies, such that, if a competitive provider begins offering service, the competitor may request that the ILEC become LNP capable.

In its Order No. 23,290 the Commission found that the filings raised, inter alia, issues related to the timing of the implementation of LNP and the requirements imposed by the Telecommunications Act and its subsequent implementation by the Federal Communications Commission (FCC). Specifically, the filings addressed the following: (1) the implications for LNP based upon the parties' status as rural telecommunications carriers, (2) cost recovery mechanisms relating to implementation of LNP, and (3) the technical feasibility of meeting the October 31, 1999 deadline.

In Order No. 23,290 the Commission agreed with the FCC's statement that it "is reasonable to focus initial efforts

in implementing number portability in areas where competing carriers plan to enter" (GST, et al., Objection at 5). The existing FCC rules state that each ILEC must make long-term number portability available in smaller MSAs (metropolitan statistical areas as defined by the Bureau of the Census) within six months after a specific request by another telecommunications carrier in the areas in which the requesting carrier is operating or plans to operate (GST, et al., Objection at 4). Given that no competing carrier has announced plans to operate in the territories served by the above-referenced companies, and, further, that no carrier has filed an objection to these motions, the Commission found that relieving these companies of the obligation to institute LNP by October 31, 1999 would not thwart the development of competition in the telecommunications industry in New Hampshire. Accordingly, the Commission did not require GST et al. and the TDS companies to implement LNP at this time.

On September 21, 1999, Union Telephone Company (Union) filed a petition with the Commission requesting that Order No. 23,210 be rescinded as it pertains to Union. Union requested that Order No. 23,210 be rescinded to the degree that it was rescinded for the other independent incumbent local exchange carriers in Order 23,290. Union further requested that the Commission either act on this petition or suspend the October 31, 1999 LNP date for Union by October 18, 1999, to allow Union

adequate time to stop preparations for implementing LNP by October 31, 1999.

Union acknowledges that it did not submit comments or request a hearing on Order 23,210 by May 27, 1999 as required by the order. However, Union points out that Order No. 23,290 rescinds Order 23,210 for all ILECs in New Hampshire except Bell Atlantic and Union. Union believes the Commission analysis set forth in Order No. 23,290 which relieves the other small ILECs of the requirement to implement LNP at this time, should also apply to Union. Union further asserts that investing in LNP would be an imprudent investment at this time for a number of reasons, including but not limited to the possibility that the equipment will sit unused until a competitor requests LNP and will not provide any significant benefit to the public interest.

Although Union's request comes well after the time required for any response to Order 23,210, we acknowledge that Union is a small ILEC and that the same rationale stated in Order No. 23,290 rescinding Order No. 23,210 for GST *et al.* and the TDS companies applies to Union. Accordingly, we will not require Union to implement LNP at this time.

Based upon the foregoing, it is hereby

ORDERED, that Order No. 23,210 is rescinded for Union Telephone Company, and it is

FURTHER ORDERED, that the existing FCC and PUC rules

with respect to number portability will continue to apply to Union Telephone Company, such that, if a competitive provider begins offering service, the competitor may request that Union Telephone Company become LNP capable.

By order of the Public Utilities Commission of New Hampshire this twelfth day of October, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary