

DR 96-420

FREEDOM RING, L.L.C.
(CHOICE ONE OF NEW HAMPSHIRE, INC. and MEDIA ONE)

**Petition Requesting that Incumbent LECs Provide Customers with a
Fresh Look Opportunity**

**Order Clarifying Order No. 22,798 and Opening a Fresh Look
Opportunity in Concord**

O R D E R N O. 23,368

December 16, 1999

This Order clarifies that: 1) a "Fresh Look" window is not required to be opened where the facilities-based competitive local exchange carrier, Media One, will only be serving residential customers; and 2) orders that a "Fresh Look" window be opened in the Concord exchange as a result of Choice One of New Hampshire, Inc.'s (Choice One) provision of commercial local exchange service.

I. BACKGROUND

Order No. 22,798 (December 8, 1997) in this docket granted long-term contract customers of New England Telephone and Telegraph Company d/b/a Bell Atlantic-New Hampshire (Bell Atlantic) a 180-day Fresh Look opportunity beginning on the date that the New Hampshire Public Utilities Commission (Commission) verifies that a competitor is operational within a given exchange identified by central office codes. A Fresh Look opportunity provides for a lower contract termination charge to the Bell Atlantic customer than would normally be required under the

contract agreement thus improving the customer's ability to seek competitive alternatives. By Order No. 23,030 (October 5, 1998), the Commission clarified Order No. 22,798 "to indicate that only the presence of facility-based competitive local exchange carriers (CLECs), not the existence of operational resellers within a particular geographical area, triggers the Fresh Look window".

On December 6, 1999, the New Hampshire Public Utilities Commission (Commission) received notice that Media One would begin providing local telephone service to residents in Derry, Salem, Hampstead and Plaistow on December 15, 1999. Prior to the notice, Media One informed the Commission, by letter dated November 30, 1999, that its telephony service plans for New Hampshire do not currently include business or commercial services and that its current plan was to provide residential service only. Media One opines in its November 30 letter that since it will only be serving residential customers, the Fresh Look window should not be opened.

On December 9, 1999 Choice One of New Hampshire, Inc. (Choice One) notified the Commission that it is providing commercial local exchange service in the Bell Atlantic, Concord exchange.

Also on December 9, 1999, the Commission received a letter from Bell Atlantic - New Hampshire (BA) informing the Commission that Media One had publicly announced plans to begin local service in Derry, Hampstead, Plaistow and Salem on December 15, 1999 and that the Fresh Look window should be opened in these exchanges. The letter also informed the Commission of Choice One's press release announcing commencement of local service to customers in Manchester, Nashua, Portsmouth and Concord.

II. MEDIA ONE

In Order No. 22,798, our initial order on Fresh Look, we stated that the Fresh Look opportunity:

applies only to those long-term contracts with more than two years remaining at the date the Commission verifies the first interconnection arrangement is operational within a specified geographic market...

Although Media One has notified us that their interconnection agreement is operational, we will not open Fresh Look in Derry, Hampstead, Plaistow or Salem at this time, because residential customers do not have long term contracts and are free to choose an alternative provider without termination liability. If we were to open the Fresh Look window now, customers in these exchanges who have a contract with Bell Atlantic would not have the option of choosing an alternative provider since Media One is not serving business customers at this time. We will however, order Media One to notify us as soon as they begin serving customers other than residential in any

exchange for which they have previously notified us.

Our previous orders on Fresh Look are hereby clarified to indicate that only the completion of a commercial call from a non-residential customer triggers the Fresh Look window.

Carriers remain required to report to the Commission each time they begin service in an exchange identifying whether service is being offered to business and/or residential customers.

III. CHOICE ONE

This order verifies that Choice One, a facility-based CLEC, is operational within the Concord exchange. Accordingly, a Fresh Look opportunity as described in Order No. 22,798 begins on the date this order issues and ends at midnight on June 13, 2000.

The relevant Concord central office codes are: 223, 224, 225, 226, 227, 228, 229, 230, 271, and 277.

Staff has recommended that we require Bell Atlantic to notify customers with contracts in Concord about the Fresh Look opportunity via direct mail rather than a bill insert. According to Staff, bill inserts have caused some customer confusion in the past and have been unnoticed by other customers. We will require Bell Atlantic to notify all long-term contract customers in the Concord exchange, excluding all other customers, about Fresh Look via a direct mailing containing language formerly approved by the Commission for use in bill inserts on this subject.

Customers having telephone numbers beginning with any

of the NXX prefixes listed above may, during the 180 day Fresh Look opportunity, terminate long-term special contracts and tariff contracts pursuant to our Order No. 22,798. By that order, we excluded long-term intraLATA toll contracts from the Fresh Look opportunity because the toll market is open to competition. By Order No. 22,903, we further clarified that Private Line service is similarly excluded from the Fresh Look opportunity because Private Line service is similarly open to competition and is not a local exchange service.

In order to take advantage of a Fresh Look opportunity, a customer's long-term contract must have at least two years remaining and the customer must have received a bona fide offer from a competing local exchange carrier (CLEC) to provide the services. Customers taking advantage of a Fresh Look opportunity are subject to a termination charge calculated by Bell Atlantic using the formula we described in Order No. 22,798.

A customer with a Fresh Look opportunity may request that Bell Atlantic calculate termination charges at any time. In addition, a CLEC which is acting as the customer's agent may request that Bell Atlantic calculate the termination charge. Requests for Bell Atlantic to calculate termination charges may be either written or verbal. Bell Atlantic has arranged for verbal requests to be handled via a toll free 800 number at 1-800-695-3230.

When customer requests are submitted along with notice

of receipt of a CLEC's bona fide offer to provide service, Bell Atlantic shall produce termination charge calculations within a maximum of 3 business days for tariff contracts and within a maximum of 5 business days for special contracts. When requests are not accompanied by notice of receipt of a CLEC's bona fide offer to provide service, Bell Atlantic shall produce termination charge calculations within a maximum of 6 business days for tariff contracts and within a maximum of 10 business days for special contracts.

A customer shall not lose its Fresh Look opportunity simply because of a dispute arising between Bell Atlantic and the long-term contract customer, or its CLEC agent, which results in the expiration of the 180-day period prior to resolution of the dispute. A customer who tenders a request to Bell Atlantic to terminate a long-term contract, that is, submits a notice of receipt of a CLEC's bona fide offer to provide service along with a request for termination charge calculations, within the 180-day period, shall retain eligibility for Fresh Look after the 180-day period runs.

Competing carriers which meet the four-point test we identified in Order No. 22,798 and clarified in Order No. 23,030 as constituting an operational CLEC must notify the Commission of that status in a timely manner.¹ Delay in making timely

¹An operational competitor, according to the four-point test, has the following attributes: (1) certification as a CLEC,

notification could cause an unjustified extension of the Fresh Look opportunity. Therefore, if unwarranted delay occurs, we may establish a Fresh Look window retroactive to a date we consider appropriate in the circumstances.

Based upon the foregoing, it is hereby

ORDERED, that our previous orders on Fresh Look are clarified to indicate that the Fresh Look window will not be opened if an operational competitor is only serving residential customers in an exchange; and it is

FURTHER ORDERED, that carriers continue to report within 10 days of serving a customer in a particular exchange, that they have completed a call in the exchange, and whether they are serving residential customers, business customers, or both; and it is

FURTHER ORDERED, that a 180-day Fresh Look opportunity is open in the Concord exchange, identified by the central office codes listed above; and it is

FURTHER ORDERED, that termination charge calculations shall be requested and provided as discussed above; and it is

FURTHER ORDERED, that Bell Atlantic notify, via direct

(2) an approved final price schedule on file with the Commission, (3) an executed, approved interconnection agreement or the ability to purchase out of another LEC's schedule for providing basic local exchange services, and (4) completion by the new entrant of its first commercial call.

mail, only long term contract customers in the Concord exchange, of the Fresh Look opportunity which begins on the date of this order and ends on June 13, 2000.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of December, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary