

DT 00-054

**INDEPENDENT TELEPHONE COMPANIES AND
COMPETITIVE LOCAL EXCHANGE CARRIERS**

Local Calling Areas

Order on Stipulation Regarding Extension of Moratorium

O R D E R N O. 23,568

October 16, 2000

APPEARANCES: Victor D. Del Vecchio, Esq., for Bell Atlantic; Devine, Millimet & Branch by Frederick J. Coolbroth, Esq., for Granite State Telephone, Merrimack County Telephone Co., Hollis Telephone Co., Dunbarton Telephone Co., Wilton Telephone Co., Northland Telephone Co. of Maine, Bretton Woods Telephone Co. & Dixville Telephone Co.; Diane Thayer and Karon Doughty for Union Telephone Company; Michael Reed for TDS Telecom; Thomas Lyle for Vitts Networks; Douglas Denny-Brown, Esq., for RNK Telecom; John Postl, Esq., for Global NAPs; Scott Sawyer, Esq., for Conversant Communications of New Hampshire; Swidler, Berlin, Shereff, Friedman, by Michael Shor, Esq., on behalf of BayRing Communications, Level3 Communications and Lightship Telecom; Stephanie Ayers for PAETEC; Kenneth Traum and William Homeyer for the Office of Consumer Advocate; and E. Barclay Jackson on behalf of the Staff of the New Hampshire Public Utilities Commission.

I. BACKGROUND and PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission), on March 16, 2000, initiated an investigation as a result of numerous complaints from customers of Independent Telephone Companies (ICOs) claiming they were billed toll charges for calls to internet service providers (ISP) served by Competitive Local Exchange Carriers (CLECs) located in a telephone exchange that would ordinarily be local to the customer.

On April 18, 2000, a prehearing conference was held at which time the parties and Staff addressed the substantive issues in the case as well as a proposed procedural schedule. Ten days later, on April 28, 2000, Staff submitted a procedural agreement reached among the parties, with the noted exception of TDS Telecom, which asked for forbearance from the tracking requirements of the agreement. The parties and Staff agreed that for 120 days from the date the Commission accepted the proposal the parties would attempt to resolve the billing issue among carriers in order to eliminate the effect of the dispute upon customers.

In addition, the agreement proposed that ICOs that currently charge toll rates for calls to NXXs assigned to rate centers in the ICO local calling area would not bill toll or access charges for those calls. The parties agreed that they would, however, record and report (to the best of their technical ability) originating minutes and messages delivered. The parties and Staff also agreed that at the end of a 67-day period the parties would develop and submit a further procedural schedule for all remaining unresolved issues. In addition, the parties agreed that there would be no true-up by any ICO, CLEC or by Verizon for calls occurring during the moratorium. This proposal was accepted by the Commission in

Order No. 23,501 (May 31, 2000).

On August 18, 2000, Staff reported to the Commission that the parties negotiated an extension of the current interim arrangement to ICO-CLEC locally dialed traffic for an additional six months following approval of the Stipulation by the Commission. On September 7, 2000, the signed stipulation was submitted for the Commission's review.

The Stipulation in pertinent part states:

ICOs and CLECs will not charge toll, access or reciprocal or intercarrier compensation, for ICO-CLEC traffic¹ originated by an ICO or CLEC customer and dialed to an NXX assigned to an ICO or a CLEC and associated with a rate center within the local calling area or extended local calling area of the calling party.² This procedure will apply whether or not the called party is physically located within the rate center to which the dialed NXX is assigned.

The stipulation goes on to require certain reporting practices from the ICOs and CLECs. Additionally, the parties acknowledged a concurrence with the Commission's intent to commence a separate proceeding to address toll charges paid by or billed to ICO customers, prior to May 31, 2000.

¹ References to AICO-CLEC trafficA also shall include CLEC-ICO traffic.

² For purposes of this Stipulation, the local and extended local calling areas of the CLEC customers are assumed to correspond to those of the respective ILEC.

No party objected to the Stipulation and the Staff has received no complaints since the inception of the moratorium. Furthermore, some of the parties have started to comply with the reporting requirements in the stipulation.

II. COMMISSION ANALYSIS

We have had the opportunity to review the stipulation submitted to us on September 7, 2000, and would first like to commend the parties for coming to a consensus regarding the interim treatment of ICO-CLEC locally dialed traffic. While we understand that the proposed agreement does not totally resolve the issue regarding the treatment of this traffic, we believe a six-month continuation of the moratorium we approved in Order No. 23,501, is appropriate at this time.

This period will allow the parties to continue to work cooperatively to gather relevant traffic data with respect to ICO-CLEC traffic. The time frame will also allow the Commission and the parties to resolve other outstanding issues that affect this case in the "consolidation docket" recently opened which deals with questions relative to the delivery of calls through the use of a virtual NXX (VNXX).

Finally, we note that the entire case may not be resolved at the end of the six month moratorium. Accordingly, the parties must advise us 150 days from the issuance of this

order regarding the status of these issues should they remain unresolved. The status report should include all outstanding issues and also contain recommendations on whether to proceed with the moratorium until the docket is finally concluded.

Based upon the foregoing, it is hereby

ORDERED, that the September 9, 2000 stipulation is approved; and it is

FURTHER ORDERED, that Staff in consultation with the parties prepare a status report as described above 150 days from the date of this Order.

By order of the Public Utilities Commission of New Hampshire this sixteenth day of October, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary