

DT 99-056

VERIZON New England, d/b/a Verizon New Hampshire

Petition to Include the Keene Exchanges in the Local Calling
Area of the West Chesterfield Exchange

Order Granting Opportunity to Poll Citizens

O R D E R N O. 23,584

November 1, 2000

On April 14, 1999, the New Hampshire Public Utilities Commission (Commission) received a petition from Representative McKim W. Mitchell and Paula Dustin (Petitioners) requesting expansion of the West Chesterfield 256 local calling area to include the Keene exchanges.

A traffic study was conducted pursuant to Puc 410.04. The study showed that an average of 7 calls per line are made each month, and that 31 percent of lines make 3 or more calls per month. Although the average number of calls per month exceeded the threshold required to establish a community of interest, the percent of lines making 3 or more calls per month did not satisfy the requirement of 40 percent and the petition was denied.

On December 13, 1999, the Commission received a letter from Representative Mitchell asking for a waiver from the rule which requires that a community of interest be established by a traffic study and requested a public hearing to give the affected citizens an opportunity to demonstrate that a community of interest exists

between the two exchanges.

At the time the Commission received Representative Mitchell's letter, House Bill 387 was pending in the Legislature. That bill proposed that when the Commission uses a community of interest standard to limit requests to add additional exchanges to a local calling area, the Commission should not reject requests solely because few calls are currently being made between the exchanges that would become local calls if the request were granted. That bill further provided that if few calls are currently being made, the Commission should consider the likelihood of significant increases in the number of calls between the exchanges if the request is granted and these calls become local calls, especially where public school district boundaries indicate that this is likely to occur. House Bill 387 was enacted as Chapter 33, Laws of 2000 and included a new RSA 378:17-a, which became effective on June 2, 2000.

On August 10, 2000 the Commission issued an Order of Notice in this docket scheduling a hearing for September 19, 2000, to determine the likelihood of significant increases in the number of calls to Keene from the West Chesterfield exchange if toll charges were eliminated and to hear evidence about how such a change would impact the public school district.

The public hearing was held on September 19, 2000,

at the Chesterfield Town Hall. The Commission received numerous comments at that hearing and also received correspondence before and after the hearing. During the hearing, a motion was made to waive the requirement to ballot the entire exchange which includes some customers who reside in Hinsdale or in the alternative, waive the entire ballot.

Subsequent to the hearing, Verizon New England Inc., d/b/a Verizon-New Hampshire (Verizon) advised the Commission that there are a total of 1386 access lines in the West Chesterfield exchange. Approximately 66 percent or 903 lines are in Chesterfield and approximately 34 percent or 483 lines are in Hinsdale.

The comments offered by the public make it clear that the West Chesterfield residents have shown that a community of interest exists between their calling area and Keene. As required by our rules, Puc 410.02, when considering whether a community of interest exists we consider whether customers in the petitioning exchange are able to call, without a toll charge, public schools, a general medical practitioner, a pharmacy, a bank, a central business area and an internet provider. Again, based on the testimony provided we believe that there is a community of interest with Keene. We in fact heard extensive testimony about the need to call

Keene for schools, medical contacts, banking, and general business concerns. We are therefore convinced that it is appropriate to proceed to a ballot despite the results of the earlier traffic study.

As noted above, during the last session of the Legislature, a new law was passed, Chapter 33, Laws of 2000, which provides that the Commission should not reject requests solely on the basis of a low current number of calls. See RSA 378:17-a, II. The Legislature also stated that in general it is desirable for municipalities that send most of their students to the same public school district to have at least most of those students' homes within each other's local calling areas and indicated that the Commission should consider the likelihood of significant increases in the number of calls between exchanges if the request is granted, especially where public school district boundaries indicate that this is likely to occur. Chapter 33:1, Laws of 2000.

We find it appropriate to proceed because we believe, based on the testimony provided, that the number of calls to Keene will significantly increase if toll charges are eliminated, in large part because students attending the same public school would have the opportunity to make local calls if the exchange were expanded as requested. In deciding

whether to conduct a poll, the Commission must consider whether the services mentioned above can be contacted, as well as whether enlarging the area will jeopardize competition, whether utilities are likely to develop creative solutions, whether granting the proposal would encourage economic development, be consistent with state and federal law and other similar considerations. Puc 410.05. In this particular case the petitioners have asked the Commission to waive the requirement for a poll, saying that the testimony was so overwhelming that we should exercise our authority to waive the rules and not require a poll. See Puc 201.05. Instead, they want us to order an increase in the calling area as requested and to order as well the increase in rates that would follow from that calling area change, from \$13.29 a month in rate group C to \$14.45 a month in rate group D for unlimited single party residence service for the customers in the petitioning exchange. There would be no impact on the Keene customers since increasing that calling area to add the customers from West Chesterfield would not add enough lines to the Keene calling area to bump it into a higher rate group.

We have carefully considered this last request for a waiver of the poll requirement, given the overwhelming testimony offered in support of the petition and given the

history of efforts to expand the calling area. As part of our considering this request, however, we have reviewed Chapter 33, Laws of 2000, which has changed how we view the traffic study. Section 1 of this law contains the following statement: "the general court finds that the commission should continue to require an affirmative vote from the requesting exchange before expanding a local calling area." In our opinion this is a clear directive from the Legislature that the Commission continue to conduct polls of the requesting exchange. We therefore do not believe that it would be appropriate under these circumstances, with such a clear statement from the Legislature, either to proceed without a poll or to poll only the West Chesterfield portion of the exchange.

The poll that we are ordering to be conducted as the next step will be of all billed customers in the exchange. In order for it to succeed at least 25% of the customers must respond. A simple majority of those voting will decide the result. At the time of the hearing some of the customers said that if we required a poll it would probably fail because of the customers in the Hinsdale portion of the exchange, although one Hinsdale customer did not agree with that assessment. As noted above, there are a total of 1386 lines

served by the exchange, of those 483, or approximately 34%, are in Hinsdale and the remaining 903, or 66%, are in West Chesterfield. Given these numbers, the Hinsdale customers alone could not cause a negative outcome to the poll as some of the Chesterfield customers who testified at the hearing feared.

We will therefore proceed to the next step of polling the customers in the West Chesterfield exchange to see if they are in favor of expanding their calling area to include Keene for an additional \$1.16 a month for unlimited residence customers and \$4.38 a month for unlimited business customers.

In order to insure maximum effective participation, the polling ballot will be designed, distributed and tabulated by the Commission. The ballot question shall include a statement of the increased rates, from rate group C to rate group D, necessitated by the expanded calling area. The poll shall be considered conclusive if ballots are returned by 25% or more of the customer base. The outcome of a conclusive vote will be determined by a simple majority of the returned ballots. We direct our Staff to move expeditiously to conduct the poll. The balloting shall be conducted according to the following schedule:

Ballot sent by Commission November 1, 2000

Ballot returned by November 22, 2000

Ballot tabulated by November 27, 2000

Based upon the foregoing, it is hereby

ORDERED, that a vote on West Chesterfield's EAS expansion to include Keene shall be conducted based on the schedule outlined above; and it is

FURTHER ORDERED, that the ballot specify local rate increases for all affected classes of service.

By order of the Public Utilities Commission of New Hampshire this first day of November, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary