

DT 00-182

**PATHNET OPERATING, INC.**

**Petition for Authority to Provide  
Local Telecommunications Services**

**Order Nisi Granting Authorization**

**O R D E R    N O.    23,689**

**April 23, 2001**

On September 1, 2000, Pathnet Operating, Inc. (Pathnet) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to the policy goals set by the New Hampshire Legislature in RSA 374:22-g, effective July 23, 1995.

Pursuant to Puc Chapter 1300, an applicant's petition for certification as a Competitive Local Exchange Carrier (CLEC) shall be granted when the Commission finds that (1) all information listed in Puc 1304.02 has been provided to the Commission; (2) the applicant meets standards for financial resources, managerial qualifications, and technical competence; and, (3) certification for the particular geographic area requested is in the public good.

The Commission Staff (Staff) reviewed Pathnet's petition for compliance with these standards. Staff reports

that the company has provided all the information required by Puc 1304.02 and that the information provided supports Pathnet's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b), (e), (f), and (g). Staff further reports that adding Pathnet to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

Pathnet requests a waiver of the surety bond requirement in Puc 1304.02(b). In support, Pathnet submitted a sworn statement that it does not require advance payments or deposits of their customers. Staff recommends granting the waiver.

We find that Pathnet has satisfied the requirements of Puc 1304.01(a)(1) and (2) and, further, that authorization is in the public good, thus meeting the requirement of Puc 1304.01(a)(3). In making this finding, as directed by RSA 374:22-g we have considered the interests of competition, fairness, economic efficiency, universal service, carrier of last resort, the incumbent's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. This finding is in accord with the goals of the federal Telecommunications Act of 1996

(TAct). Because Pathnet has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

As part of its petition, Pathnet avers it will charge access rates no higher than by Verizon New Hampshire's present and future rates for intraLATA switched access. At any point Pathnet seeks to exceed Verizon New Hampshire's access rates, it will first seek Commission review. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop, in order to avoid any inhibition of intraLATA toll competition in contravention of the Telecommunications Act of 1996.

We note that as new competitors enter the market, greater pressure is put on the 603 area code, so long as today's antiquated number assignment process remains in effect. Accordingly, we will require that Pathnet request and use numbers responsibly and conservatively, and to join in implementing alternative mechanisms to use existing numbers as efficiently as possible. As evidenced by our recent orders, we have serious concern for the maintenance and viability of the 603 area code and the North American Numbering Plan as a whole. In approving this petition, we require Pathnet to comply with our orders on number resource optimization, including but not limited to Order No. 23,385 issued January

7, 2000, and Order No. 23,392 issued January 27, 2000.

**Based upon the foregoing, it is hereby**

**ORDERED NISI**, that Pathnet's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Verizon New Hampshire, is hereby GRANTED, subject to all relevant Commission rules and orders; and it is

**FURTHER ORDERED**, that Pathnet's request for waiver of the surety bond requirement of Puc 1304.02(b) is hereby GRANTED, subject to Pathnet's agreement not to collect any deposit, prepayment or advance payment prior to the provision of service; and it is

**FURTHER ORDERED**, that no less than ten days prior to commencing service, the Pathnet shall file with the Commission a rate schedule including the name description and price of each service, in accordance with N.H.Admin. Rules, Puc 1304.03(b); and it is

**FURTHER ORDERED**, that the Pathnet shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than April 30, 2001 and to be documented by affidavit filed with this office on or before May 7, 2001; and it is

**FURTHER ORDERED**, that all persons interested in responding to this Order Nisi shall submit their comments or file a written request for a hearing on this matter before the Commission no later than May 10, 2001; and it is

**FURTHER ORDERED**, that this Order Nisi shall be effective May 23, 2001, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of April, 2001.

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Douglas L. Patch  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Thomas B. Getz  
Executive Director and Secretary