

DT 00-281

PREXAR, LLC

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

Order Nisi Granting Authorization

O R D E R N O. 23,769

August 31, 2001

On December 14, 2000, Prexar, LLC (Prexar) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide facilities based dedicated unswitched telecommunications services, pursuant to RSA 374:22-g, and NH Admin Rules Puc Chapter 1300.

Prexar intends to provide Digital Broadband Service (DBS)On-Net service a data networking service based upon frame relay and ATM technology. Prexar seeks authorization as a Competitive Local Exchange Carrier (CLEC) as it intends to collocate with certified carriers and seeks access to unbundled network elements of such carriers. At this time Prexar does not intend to provide local exchange service, therefore it does not have an need to use central office (NXX) codes.

Pursuant to Puc Chapter 1300, an applicant's petition for certification as a 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) has reviewed Prexar'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 Prexar'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 Prexar to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

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

Prexar also requests a waiver of the following N.H. Code Administrative Rules as it does not currently intend to

provide local exchange services.

Puc 1304.03(e)(1) Puc 400 rules applicable to CLECs
Puc 1304.03(e)(2) Puc 1200 rules
Puc 1304.01 Minimum requirements of basic service
Puc 1306.02 Terms of providing basic service
Puc 1308.01(a),(b), and (f) - Relating to ILECs
Puc 1309 Intercompany cooperation
Puc 1310.03 Exit fees
Puc 1310.04 Interim number portability

Staff recommends granting the waivers as Prexar does not at this time intend to provide local switched services.

We find that Prexar 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 further supported by the Telecommunications Act of 1996 (TAct). Because Prexar has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

As part of its petition, Prexar avers it will charge access rates no higher than by Verizon New Hampshire's present and future rates for intraLATA switched access if Prexar offers any services in the future in New Hampshire in which

switched access is charged. At any point Prexar 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.

Based upon the foregoing, it is hereby

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

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

FURTHER ORDERED, that Prexar's request for waiver of certain PUC rules discussed herein supra is hereby GRANTED so long as Prexar limits its service as indicated in its Petition; and it is

FURTHER ORDERED, that no less than ten days prior to commencing service, the Petitioner 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 Prexar 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 September 7, 2001 and to be documented by affidavit filed with this office on or before September 14, 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 September 24, 2001; and it is

FURTHER ORDERED, that this Order Nisi shall be effective October 1, 2001, unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that, should the petitioner fail to exercise the authority granted herein within two years of the date of this order, the authority granted shall be deemed withdrawn, null, and void.

By order of the Public Utilities Commission of New
Hampshire this thirty-first day of August, 2001.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary