

DT 00-044

TELERGY NETWORK SERVICES, INC.

Withdrawal of Local Exchange Carrier and  
IntraLATA Toll Provider Certifications

Order Nisi Granting Company Request

O R D E R    N O.    23,832

November 2, 2001

On October 5, 2001, this Commission received notification of Telergy Network Services, Inc.'s (Telergy) intent to withdraw its certifications granted by the State of New Hampshire and any tariffs. Telergy is certified in New Hampshire under Order No. 23,532, dated July 6, 2000, to provide Competitive Local Exchange Carrier (CLEC) telecommunications services. Telergy is also certified as an intraLATA toll provider under IXC No. 37299, issued June 17, 1999.

Telergy states in its notice that it "...do[es] not have any customers in New Hampshire and ha[s] not collected any deposits," and therefore no New Hampshire customers could be adversely affected.

The Commission staff (Staff) cites the rule applicable to withdrawal of CLEC authority, N.H. Code of Administrative Rules Puc 1304.03 (d). It requires the Commission to find that (1) all of the CLEC's customers have

been notified of the CLEC's request to cease operations; (2) a period of 60 days has elapsed within which the CLEC's customers can migrate to an alternate carrier; and (3) all of the CLEC's customers have been sent refunds of any and all deposits. As Telergy Network Services, Inc. reports having no customers in New Hampshire, these conditions are effectively satisfied.

Similar conditions are imposed on a Toll Provider intending to withdraw its certification. Puc 411.05 requires the Commission be informed 14 days before the cessation of operations; written notice to customers; and refund to customers of any applicable amounts owed. Again, Telergy's absence of customers effectively meets these conditions.

While it is unfortunate for New Hampshire customers to lose choices in the telecommunications market, we understand the need for companies to adjust their plans to rapidly changing conditions. In this case, we agree that all conditions imposed by Puc 1304.03 (d) and Puc 411.05 have effectively been met as Telergy has no New Hampshire customers. Therefore, we will grant the request of Telergy and withdraw their certifications and any and all tariffs. However, we will issue this order on a nisi basis to afford interested parties notice and an opportunity to be heard

pursuant to RSA 374:28. We also note that this order does not relieve Telergy Network Services of any obligation it may have incurred while certified to provide service in New Hampshire.

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

**ORDERED NISI**, that the request of Telergy Network Services, Inc. is GRANTED; and it is

**FURTHER ORDERED NISI**, that the certification to provide Competitive Local Exchange Carrier telecommunications services granted in Order No. 23,532 is withdrawn; and it is

**FURTHER ORDERED NISI**, that the certification to provide intraLATA toll in New Hampshire under IXC No. 37299 is withdrawn; and it is

**FURTHER ORDERED NISI**, that any tariffs on file under the name Telergy Network Services, Inc. be withdrawn.

**FURTHER ORDERED**, that the Public Utilities Commission shall cause a copy of this Order Nisi to be posted on the Commission's Internet website, such posting to be no later than November 5, 2001; and it is

**FURTHER ORDERED**, that all persons interested in responding to this petition shall be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than November 15, 2001; and it is

DT 00-044

-4-

**FURTHER ORDERED,** that this Order Nisi shall be effective November 26, 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 second day of November, 2001.

---

Thomas B. Getz  
Chairman

---

Susan S. Geiger  
Commissioner

---

Nancy Brockway  
Commissioner

Attested by:

---

Claire D. DiCicco  
Assistant Secretary