

DT 01-127

**GLOBAL NAPS, INC.**

**Petition for an Order Directing Verizon-NH to Comply  
With its Interconnection Agreement Obligation  
to Pay Reciprocal Compensation**

**Prehearing Conference Order**

**O R D E R    N O.    23,865**

**December 7, 2001**

**APPEARANCES:** William Rooney, Esquire, for Global NAPS, Inc., Donald Boecke, Esquire, for Verizon New England, and Lynmarie Cusack, Esquire, for the Staff of the New Hampshire Public Utilities Commission.

**I.    PROCEDURAL HISTORY**

On June 15, 2001, Global NAPS, Inc. ("Global") filed a Petition with the New Hampshire Public Utilities Commission ("Commission") requesting an Order directing Verizon - New Hampshire ("Verizon") to comply with its Interconnection Agreement obligation to pay reciprocal compensation to Global. The Commission initiated a proceeding by way of Order of Notice dated November 6, 2001, to investigate whether offsets under the Interconnection Agreement are an appropriate remedy.

A Prehearing Conference and Technical Session were held on November 28, 2001, at which the Staff, Global, and Verizon presented their preliminary positions. There were no requests for intervention submitted.

**II.    PRELIMINARY POSITIONS OF THE PARTIES AND STAFF**

**A. Global NAPs, Inc.**

Global posits that this docket can be summarized by one question, that is: Does Verizon have the right to set off payments under a New Hampshire interconnection agreement of monies earned in New Hampshire by amounts that are allegedly owed for services rendered in other states, specifically Massachusetts and Rhode Island? Global asserts that Verizon cannot.

Global argues that this Commission has jurisdiction over the interpretation and arbitration of New Hampshire interconnection agreements. Global alleges as well that Verizon is attempting to cloud that agreement by protesting payment because of amounts owed in other states.

Global suggests that this Commission has no authority to arbitrate interconnection agreements in Massachusetts or Rhode Island as it cannot effectively make determinations if any monies are owed by Global in those states. Finally, Global avers that allowing Verizon to make such a setoff is in violation of their contract.

**B. Verizon - New Hampshire**

Verizon alleges that Global owes in excess of three times the amount owed by Verizon in reciprocal compensation dollars (\$200,440.47) to Verizon for services rendered in other states, specifically Massachusetts and Rhode Island, and therefore is entitled to a setoff of the undisputed amount owed

to Global by Verizon. Verizon suggests that Global requested this Commission's assistance to resolve what is essentially a contract dispute that is traditionally within the subject matter jurisdiction of the courts. Verizon asserts that Global is aware that this Commission has no jurisdiction to hear, interpret and resolve setoff claims under an agreement in another state and is nonetheless pursuing relief here. Verizon also claims it would be at an unfair disadvantage litigating this issue before the Commission because it would have difficulty presenting conclusive evidence to the Commission regarding the amounts owed Verizon by Global in those other states because those amounts are still in dispute.

Verizon suggests that even if this Commission shares in jurisdiction with the courts, it should abstain in this instance for reasons of equity and fairness because it would not have jurisdiction to resolve the entire dispute. Verizon believes that the proper venue for this dispute is a civil court and contends it has clear setoff authority under New Hampshire statutory authority, i.e., RSA 515:7. Finally, Verizon avers that this is not a billing dispute.

**C. Staff**

Staff takes no position as to the merits of the case before the Commission. However, Staff believes there are

questions of law which need to be addressed and that the Parties should file briefs addressing those issues with the Commission. Additionally, Staff believes that there may be opportunities for the parties to amicably settle their dispute and offers the services of Staff as a mediator to assist the Parties in reaching a negotiated agreement.

### **III. PROCEDURAL SCHEDULE**

After a brief recess in the Prehearing Conference, the Commission determined that this docket should proceed through legal briefs without the need for a hearing. The Commission indicated that it would require an agreed-upon Statement of Facts to be included in the briefs and that issues of jurisdiction, including analyses of Sections 29:8 and 29:9 of the Parties' Interconnection Agreement must be addressed. Staff and Parties agreed, as suggested in a letter from Staff dated November 29, 2001, that all Parties involved in this docket would file briefs on or before January 11, 2002.

### **IV. COMMISSION ANALYSIS**

The Commission finds that the date for filing briefs suggested by the Parties is reasonable, and further finds that the briefs must include analysis of the following:

1. Whether the Commission has jurisdiction to hear this matter. The section of the brief addressing jurisdiction should include a discussion of Sections 29.8 and 29.9 of the New

Hampshire Interconnect Agreement.

2. If the Commission has jurisdiction, whether it should or may decline to exercise such jurisdiction.

3. Whether Verizon has the right to set off against its obligation to Global, under the New Hampshire interconnection agreement, any monies due it by Global under interconnection agreements between the parties for service in other states.

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

**ORDERED**, that this docket will proceed on the papers without the need for a hearing; and it is

**FURTHER ORDERED**, that briefs, including the issues outlined above, as well as an agreed-upon statement of facts, will be submitted by all Parties on or before January 11, 2002.

By order of the Public Utilities Commission of New  
Hampshire this seventh day of December, 2001.

---

Thomas B. Getz  
Chairman

---

Susan S. Geiger  
Commissioner

---

Nancy Brockway  
Commissioner

Attested by:

---

Debra A. Howland  
Executive Director & Secretary