

DT 01-113

EQUAL ACCESS NETWORKS, LLC

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

Order Nisi Granting Authorization

O R D E R N O. 23,879

December 21, 2001

On May 18, 2001, Equal Access Networks, LLC (Equal Access) 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.

The Commission Staff (Staff) recommended approval of the petition and, accordingly, on October 11, 2001 we entered Order No. 23,804 approving the petition on a nisi basis. Specifically, we indicated that the approval granted in the Order would be effective as of November 12, 2001 unless otherwise ordered by the Commission, we established October 29, 2001 as the deadline for public comments and/or requests for hearing on the petition, and we directed Equal Access to publish the text of the Order in a newspaper of statewide circulation no later than October 22, 2001. On December 5, 2001, Equal Access advised the Commission in writing that it had not accomplished the publication of Order No. 23,804.

In these circumstances, we deem it appropriate to treat our previous Order nisi as not having become effective, a condition precedent (publication) having not been satisfied by the petitioner. In its December 5 letter, Equal Access assents to reissuance of our previous Order nisi and, indeed, requests that the Commission do so.

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.

As already noted, and as previously stated in Order No. 23,804, Staff has reviewed Equal Access'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 Equal Access'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 Equal Access to the choices available to New Hampshire telecommunications consumers appears to be in the public

interest.

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

Equal Access does not intend to provide switched service and has therefore requested waivers from the provisions of the following New Hampshire Administrative Rules:

Puc 1304.03(e)(1) Puc 400 rules applicable to CLEC

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) & (f) Relating to ILECs

Puc 1309 Inter-company cooperation

Puc 1310.03 Exit fees

Puc 1310.04 Interim number portability

We find that Equal Access 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 Equal Access has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

As part of its petition, Equal Access avers it will charge access rates no higher than Verizon New Hampshire's present and future rates for intraLATA switched access. At any point Equal Access 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 Equal Access request and use numbers responsibly and conservatively, and to join in exploring 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 Equal Access 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 Equal Access'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 with respect to non-switched access only, subject to all relevant Commission rules and orders; and it is

FURTHER ORDERED, that Equal Access is required to comply with our Order No. 23,385 issued January 7, 2000, Order No. 23,392 issued January 27, 2000, and further orders issued by the Commission concerning number conservation; and it is

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

FURTHER ORDERED that Equal Access's request for waiver of Puc 1304.03(e)(1); Puc 1304.03(e)(2); Puc 1304.01; Puc 1306.02; Puc 1308.01(a), (b) & (f); Puc 1309; Puc 1310.03; and Puc 1310.04 is GRANTED insofar as Equal Access does not provide switched

access service; 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 Equal Access 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 January 4, 2002, and to be documented by affidavit filed with this office on or before January 18, 2002; 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 January 14, 2002; and it is

FURTHER ORDERED, that this Order Nisi shall be effective January 22, 2002, 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 twenty-first day of December, 2001.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary