

DT 00-015

**UNIVERSAL SERVICE
Soft Dial Tone and Voicemail for the Homeless**

**Order Regarding Status of Soft Dial Tone
and Voicemail for the Homeless**

O R D E R N O. 24,090

December 6, 2002

I. PROCEDURAL HISTORY AND BACKGROUND

The New Hampshire Public Utilities Commission (Commission) opened this docket to evaluate the impact of the Telecommunications Act of 1996 upon the provision of universal service in New Hampshire. The evaluation proceeded as a collaborative effort by a working group composed of the parties and Staff, which ultimately presented a report for the Commission's consideration at a hearing on August 22, 2000. After a hearing at which the report was presented, the Commission adopted the working group's recommendations, with some modifications, by Order No. 23,602.

During the hearing, two parties introduced recommendations, which had not been examined in the working group's report. The Office of the Consumer Advocate (OCA) and the Save Our Homes Organization (SOHO) recommended that the Commission add Soft Dial Tone to the services that are to be provided under a universal service requirement, and

SOHO recommended that Voicemail for the Homeless be added to the list.

Order No. 23,602 directed that a group of interested parties and Staff study the costs and benefits of the newly raised recommendations. The Commission ordered that this new working group submit a report, by June 30, 2001, on the feasibility of including these two services as required universal services.

Soft Dial Tone is a service that provides customers with the ability to connect to emergency numbers, such as 911, after having been disconnected for non-payment or other reasons. Currently, some local exchange carriers provide customers Soft Dial Tone, at the telephone carrier's discretion, for 10 days following disconnection due to non-payment.

Voicemail for the Homeless is a service, currently available in over a dozen states, that provides homeless families and families that cannot afford telephone service with access to voicemail. The service enables them to receive messages from, for instance, prospective employers or landlords, schools, human service agencies and medical care providers, etc.

Participating in the new working group were Verizon New Hampshire (Verizon), the Independent Telephone

Companies (ITCs) including Granite State Telephone, Inc., Merrimack County Telephone Company, Wilton Telephone Company, Inc., Hollis Telephone Company, Inc., Dunbarton Telephone Company, Inc., Bretton Woods Telephone Company, Inc., Union Telephone Company, and Dixville Telephone Company; SOHO, AT&T Broadband, the New Hampshire Coalition Against Domestic Violence and Sexual Abuse (Coalition), the OCA, and the Staff of the Commission (Staff).

Unable to reach agreement as to the feasibility of including Soft Dial Tone or Voicemail for the Homeless as part of a universal service requirement, the working group submitted a report summarizing the key issues raised during technical discussions and requested that the Commission accept briefs from each participant on those issues. The Commission determined that briefs should be filed by July 20, 2001.

II. POSITIONS OF THE PARTIES AND STAFF

A. Verizon

Verizon argues that the Commission should not require telephone utilities to provide, as part of the universal service requirement, Soft Dial Tone to customers who have been disconnected or Voicemail to the Homeless. Verizon states that the proposed services will create legal, policy, technical, and financial problems without providing

any significant benefit to universal service. VZ Brief at 1. Verizon further argues that the Commission should not decide these complex issues based upon the position papers filed. Instead, according to Verizon, the Commission should first use the position papers filed to decide whether a full evidentiary record should be developed upon which to properly decide the issues.

Verizon avers that Soft Dial Tone is unnecessary to meet the goal of universal service in New Hampshire. Universal Service has already been achieved, according to Verizon, as is apparent by the overall basic service penetration rate of 98% as of March 2000.

Verizon further states that Lifeline Customers, who must meet a financial needs test to qualify for the program, constitute those most likely to experience financial difficulties and fail to pay their bills. However, in Verizon's experience, very few Lifeline customers leave the network due to payment difficulties. Verizon concludes that extending Soft Dial Tone is unnecessary for Lifeline customers.

Verizon claims that the costs and development efforts to implement a mandatory Soft Dial Tone requirement are very high compared with the number of customers who may benefit. Costs would include systems development work,

maintenance of restricted (911) dial tone to otherwise disconnected lines and the costs of maintaining the lines themselves, increased collectibles and lost revenue, and the opportunity costs of unavailable facilities being used for Soft Dial Tone lines that would otherwise be available to other customers. Verizon avers that whatever problems Soft Dial Tone is supposed to solve, they do not outweigh the costs and implementation problems Soft Dial Tone will create.

Verizon also opposes mandatory Voicemail for the Homeless. Such a service, Verizon posits, is a social service totally unrelated to universal telephone service. To Verizon it is self-evident that Voicemail for the Homeless will neither increase telephone service availability nor provide telephones to those who do not have one; nor will Voicemail for the Homeless increase the penetration rate or improve any other relevant measure of universal service. Voicemail for the Homeless, according to Verizon, will merely screen calls to keep callers unaware of an individual's housing circumstances. Voicemail for the Homeless, while being a worthwhile social service, Verizon argues, is not a universal service requirement.

Finally, Verizon avers that voicemail is an unregulated, non-tariffed service in New Hampshire. The Commission's policy of non-regulation of voicemail, Verizon points out, has resulted in a competitive market in which voicemail services are available from various sources, many of which are not public utilities.

B. The Independent Telephone Companies

The ITCs believe that the working group did not produce evidence compelling enough to mandate extension of Soft Dial Tone as part of universal service. Echoing Verizon's argument, they state that penetration levels in New Hampshire are very high, significantly reducing the need for additional Soft Dial Tone. Most disconnected users, according to the ITCs, are reconnected within a short period of time, thus minimizing the need for Soft Dial Tone. If the Commission prohibits disconnection of basic local residential service for non-payment of toll service bills, disconnection of service for non-payment would become a rarity, further reducing the need for Soft Dial Tone. Accordingly, the ITCs suggest that the Commission should delay any decision on Soft Dial Tone until completion of a rulemaking process on disconnection for non-payment of toll bills.

If the Commission nonetheless determines that a need for Soft Dial Tone exists, the ITCs recommend the service be limited to situations where telephone services have been disconnected due to non-payment of bills and to require Soft Dial Tone service for not more than 45 days. This, the ITCs contend, would avoid installation of service at locations where the customer has not requested service and also protect a LEC from having to install unpaid permanent service merely to maintain Soft Dial Tone.

The ITCs also argue against a Soft Dial Tone requirement on the basis of possible interference with Enhanced 911 service. Soft Dial Tone would complicate the E911 address information data base.

As for Voicemail for the Homeless, the ITCs argue that it might well provide needed benefits to homeless individuals in their attempts to establish housing and employment. However, the ITCs also believe that Voicemail for the Homeless does not constitute basic telecommunications service. Therefore, the ITCs recommend that Voicemail for the Homeless should be provided through governmental or charitable initiatives, not by universal service requirements.

C. Union Telephone Company

Union recommends that the Commission retain the Soft Dial Tone policy currently in place in New Hampshire. Union's primary concern in implementing a longer period for Soft Dial Tone is the likely impact on the switched network and telephone carriers' resources. Furthermore, Union objects to creating two-way Soft Dial Tone access as that would deter a carrier from blocking any other calls placed to the disconnected line. According to Union, two-way Soft Dial Tone would establish a substantial potential for abuse and telephone fraud.

Union claims that increasing Soft Dial Tone beyond 10 days or making it two-way would increase the strain on numbering resources and also network capacity in the switches. According to Union, it and other telephone utilities would likely have to construct and maintain unnecessary and unused facilities simply because an unused line has been set aside for a long period of time for every disconnection.

If the Commission does mandate Soft Dial Tone for a period longer than 10 days, Union recommends that it do so on a trial basis only. The trial should limit provision of Soft Dial Tone to a maximum of 45 days and include a provision to automatically end the policy after one year

unless the Commission specifically extends it. The limited trial would provide sufficient time for the Commission to adequately analyze the impact of the policy.

Union agrees with the ITCs that despite the well-intentioned social benefits of Voicemail for the Homeless, that service should be addressed and funded through governmental social welfare agencies. In Union's view, placing the burden of funding such a social welfare program on telecommunications companies, that will pass the cost on to customers, is inappropriate.

D. Save Our Homes Organization

SOHO asserts that Soft Dial Tone is essential to provide access to 911 emergency services. Therefore, for the public health, safety, and welfare purposes underlying state mandated 911 service, SOHO recommends that carriers should be required to provide Soft Dial Tone whenever residential telephone services are disconnected. SOHO argues that, in today's world, access to emergency services is essential. Medical emergencies, domestic violence, and fires can occur at any time, making the importance of access to 911 impossible to overstate. Low-income households in particular, according to SOHO, are affected by financial restrictions that can cause disconnection of telephone services. SOHO argues that such financial

restrictions should not deny access to 911 and emergency services.

In support of its position, SOHO provides examples of its implementation in a number of other states. In Vermont, for instance, it is known as Continuous Emergency Access and is available for a six month period after service disconnections. In Ohio, Florida, and Oklahoma, administrative rules require Soft Dial Tone for varying periods of time, while in California and Mississippi state statutes require such service.

SOHO also advocates that the Commission should determine whether it has jurisdiction to require telephone carriers to make free or reduced-cost access to voicemail at payphones available to homeless persons. SOHO states that obtaining housing, employment, and access to social services and governmental benefits are clearly in the public interest and that access to such services substantially promotes the goals of public health, safety, and welfare. SOHO believes that making payphones, including public interest payphones, available for access to Voicemail for the Homeless will promote these vital social interests.

E. NH Coalition Against Domestic and Sexual Violence

The Coalition, composed of 14 organizations that provide direct support services to victims and survivors of domestic and sexual abuse, state that telephone service is critical to individuals in crisis in New Hampshire. In 2000, over 13,500 individuals contacted the 14 crisis centers. However, states the Coalition, the current ten-day grace period for disconnected phones does little to address concerns for individuals needing longer-term access to emergency phone services. Those individuals include victims of abusive partners who disconnect telephone service as a means of isolating their victims and prohibiting them from seeking medical, legal, or crisis help; victims of stalkers who use the phone to harass their victims; and, individuals who succeed in leaving their abusive situation but do not have the resources to make security deposits on apartments and utilities. Soft Dial Tone may be the only means they have of obtaining emergency medical assistance for their children and themselves. Additionally, some individuals disconnect their telephones as a means of stopping constant harassment from a stalker. These individuals, the Coalition believes, should have the ability to call emergency numbers.

The Coalition advocates for Soft Dial Tone service for every line disconnected for any reason. They believe that while the numbers for long-term usage may be very small, to the individuals who require this measure of safety, it may be a matter of life and death. The very people who may be most in need of emergency services, the Coalition asserts, are often the very ones for whom this service is inaccessible.

The Coalition takes no position regarding voicemail for the homeless.

F. Office of Consumer Advocate

The OCA avers that in certain instances, the availability of Soft Dial Tone would represent a life and death safety issue. Nonetheless, as the OCA cannot determine at this time the costs to implement and maintain Soft Dial Tone or determine the long-term ramifications of mandating Soft Dial Tone, the OCA proposes implementation of a two-year pilot program of the service.

The OCA proposes the following terms and conditions for its proposed two-year pilot program.

- 1) Soft Dial Tone would be available to all NH customers whose service has been disconnected for non-payment.

- 2) Soft Dial Tone would only enable the user to dial 911 and the providing company's administrative office.
- 3) Soft Dial Tone telephones would not be able to receive incoming calls with the exception of return 911 calls, if technologically and financially feasible.
- 4) Soft Dial Tone would remain active for 60 days following disconnection or until service is reactivated, whichever is shorter.
- 5) Exceptions to the 60-day rule would exist for:
 - a. evidence of pending eligibility for financial assistance,
 - b. waiver to carrier based on need for lines to serve new customers.
- 6) Carriers would be permitted to recover documented incremental, prudently incurred costs associated with the pilot program.

The OCA believes it is too early to address some of the issues raised by Soft Dial Tone and suggests that the Parties gather data during the two-year pilot program.

Regarding Voicemail for the Homeless, the OCA views the program as a valuable service, but not a regulated one. Therefore, the OCA does not support the

inclusion of Voicemail for the Homeless in the definition of universal service. The OCA notes that telephone utilities could be of assistance to the homeless using such a program by making all payphones either low-cost or no-cost to users attempting to retrieve messages from a New Hampshire-based voicemail program.

III. COMMISSION ANALYSIS

A. Soft Dial Tone

We address here the narrow issue of whether Soft Dial Tone, also known as "warm dial tone" and "left-in dial tone," should be included in the definition of universal service, i.e., among the services to be funded by a universal service fund when and if such a fund is established. Soft Dial Tone is a service that allows a consumer to use an otherwise disconnected phone line to contact emergency services (911) and the local exchange carrier's central business office.

By our Order No. 23,602, we adopted the Federal Communications Commission's (FCC's) definition of universal service, mandating that all FCC revisions to the definition will be incorporated into the New Hampshire definition automatically so as to ensure access to modern networks. In CC Docket No. 96-45, *Federal-State Joint Board on Universal Service*, 16 F.C.C.R. 16155, 16157 (August 21,

2001), the FCC sought comment regarding the issue of Soft Dial Tone, as to its inclusion in universal service and as to methods for providing it consistent with the principles of competitive neutrality. However, to our knowledge, Soft Dial Tone has not been incorporated into the core list of mandated services. Therefore, Soft Dial Tone will not be automatically incorporated into our state definition. We nevertheless consider it here on its independent merits.

The New Hampshire General Court enacted RSA 374:22-p, dealing with a state universal service fund, effective July 1, 2001. The statute outlines guidelines for a state universal service fund, and directs the Commission to develop draft rules to implement a fund consistent with the goals of the 1996 Telecommunications Act, but specifically refrains from establishing such a fund. The statute is silent regarding the services to be included in universal service for funding.

The statute does indicate the legislature's view of the scope of universal service. RSA 374:22-p, Section II directs the Commission to

...require every provider of intrastate telephone service to participate in outreach programs designed to increase the number of low-income telephone customers on the network through increased participation in any universal service program approved by the Commission and

statutorily established by the legislature
(emphasis added);

Section III directs the Commission to

...seek to ensure that affordable basic
telephone services are available to consumers
throughout all areas of the state...;

and Section V directs that the Commission

annually, shall assess the penetration rate
of basic telephone services. If this penetration
rate ever falls below the national average
penetration rate, the commission shall commence
an investigation and take steps to enhance
telephone market penetration...The public policy
goal should be to raise the low income
penetration level as close as reasonably possible
to the statewide average.

Hence, the statutory universal service mandate has a goal
of fostering access to the basic services of the
telecommunications network by all New Hampshire citizens,
with a focus on low income citizens.

We understand that some local exchange carriers'
customary practice is to provide Soft Dial Tone for a
period of ten days after disconnection of a line for any
reason. We understand that this practice represents an
efficiency and a convenience for the carriers and for
customers. Most lines that have been disconnected are
reconnected within ten days and the task of reconnecting a
line that still has dial tone, as opposed to a dead line (a
"hard" disconnect), is simpler and less labor intensive.

Currently, the Soft Dial Tone is provided voluntarily and may vary from carrier to carrier. Some carriers' Soft Dial Tone permits a customer to reach the carrier's business office only, while some carriers' Soft Dial Tone permits a customer to reach 911.

The foregoing demonstrates that Soft Dial Tone is not a service directed at increasing access to the telecommunications network. It is a limited service directed at increasing access to emergency services. Thus we find that Soft Dial Tone does not fall within the scope of universal service as contemplated by the Legislature in RSA 374:22-p.

Several parties recommend that particular social problems, such as lower telephone penetration levels for low income customers, disconnection for non-payment, and security for abused women and their children can be addressed by the provision of Soft Dial Tone. Although we believe that Soft Dial Tone could conceivably alleviate some of these problems, we are not persuaded that adding Soft Dial Tone to those services funded by a universal service fund in the future will achieve the legislative goal as currently constituted and we see no clear legislative directive to do so.

New Hampshire's higher than national average penetration level, as reported in the FCC's March 2002 Telephone Subscribership Report, demonstrates that basic telephone service is widely accessible in New Hampshire. Our state's high penetration level reflects New Hampshire's low poverty rates and also its telecommunications policy decisions, over the years, to foster affordable, safe, and reliable service. We cannot find here that Soft Dial Tone will increase penetration and, therefore, will not add it to the list of services to be funded by a state universal service fund.

We do find that Soft Dial Tone, however, is a service that can enhance public health and safety in emergencies and is an element of safe and reliable service. We will therefore initiate a rulemaking docket to institute mandatory Soft Dial Tone by incumbents and competitors, as opposed to the voluntary provisioning that currently exists. We will utilize the information obtained in the technical sessions held and the briefs filed in this docket to craft our proposed rule on Soft Dial Tone.

Meanwhile, we will undertake actions to address the low penetration rate of Lifeline. Lifeline is a program that is not currently fulfilling as much of its promise for aiding low income customers as was anticipated.

Consequently, we will direct carriers to initiate expanded outreach programs and direct our Consumer Affairs Division to develop expanded education efforts and work with relevant social service agencies to increase participation. Inasmuch as the low penetration rates may be the result of large reconnection fees, we will also initiate a rulemaking regarding disconnections for non-payment of toll service bills.

B. Voicemail for the Homeless

Voicemail for the Homeless would enable homeless families and families unable to afford a phone to have access to a voice mailbox for the purpose of receiving messages. The service would allow prospective landlords, employers, schools, or social service agencies to communicate with the homeless by phone.

As we understand the concept, with Voicemail for the Homeless each user would be assigned his own phone number and private pass code to retrieve messages via touch tone phone. Payphones can be programmed to connect to such voice mailboxes. Groups relying on private funding, grants and donations have established voice mailboxes for the homeless in some communities, thereby obtaining the necessary hardware, software, staff, and telephone service.

A majority of the parties agree that the idea has merit as a social program but argue that the Commission should not order it. We agree with those parties that the appropriate way to pursue implementation of the goal of instituting Voicemail for the Homeless is through legislative or social service agency action. We will not at this time include the service in the list of core services covered by universal service nor require carriers to offer the service without remuneration.

Based upon the foregoing, it is hereby

ORDERED, that, neither Soft Dial Tone nor Voicemail for the Homeless shall be added to the list of services to be included for funding by a state universal service fund pursuant to RSA 374:22-p, and it is

FURTHER ORDERED, that all eligible telecommunications carriers shall file proposed plans for expanding their Lifeline Telephone Assistance and Linkup New Hampshire outreach efforts within 60 days of the date of this order; and it is

FURTHER ORDERED, that the eligible telecommunications carriers shall meet with Staff annually thereafter to review their Lifeline and Link-up enrollment levels and modify their outreach program as needed; and it is

FURTHER ORDERED, that our Consumer Affairs Division shall convene a meeting of all eligible telecommunications carriers and relevant social service agencies to discuss and develop joint outreach efforts to increase participation in LifeLine.

By order of the Public Utilities Commission of New Hampshire this sixth day of December, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary