

**DT 04-089**

**ZONE TELECOM, INC.**

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

**Order Nisi Granting Authorization**

**ORDER NO. 24,355**

**July 26, 2004**

On June 23, 2004, ZONE Telecom, Inc. (ZONE) filed with the New Hampshire Public Utilities Commission (Commission) an application to provide facilities based Competitive Local Exchange Carrier (CLEC) service in New Hampshire, pursuant to N.H. Administrative Rules. Pursuant to RSA 374:22-g, the Commission may authorize the provision of intrastate switched and non-switched local exchange telecommunications services by more than one provider, in all telephone franchise areas served by a telephone utility that provides local exchange service and has more than 25,000 access lines.

ZONE, a Delaware corporation, is an indirect wholly owned subsidiary of e-Kong Group Limited. ZONE is authorized to provide local exchange service in Florida, Maryland, New York and Rhode Island. On October 2, 2000, ZONE was certified to provide intraLATA toll service in the State of New Hampshire under IXC No. 10-001-00.

Pursuant to N.H. Administrative Rule Chapter Puc 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 ZONE's petition for compliance with these standards. Staff reports that ZONE has provided all the information required by Puc 1304.02 and that the information provided supports ZONE's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b)(2), (e), and (g). Staff further reports that adding ZONE to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

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

ZONE also requests a waiver of Puc 1304.02(a)(6) which requires the filing of a U.S. Geological Survey-based map of the areas in which service will be offered. ZONE states that it will offer service only in those territories served by Verizon New England d/b/a Verizon New Hampshire (Verizon). Maps of that territory are already on file with the Commission. Staff recommends granting the waiver.

We find that ZONE has satisfied the requirements of Puc 1304.01(a)(1) and (2). We also find that granting ZONE authority to operate as a CLEC, in Verizon's territory, 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 telephone company's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred.

ZONE attests it will not charge any customer deposits, including advanced payments and seeks waiver of Puc 1304.02(b) which requires a CLEC applicant to post a surety bond to cover refund of deposits and advanced payments. A rule waiver is appropriate upon a determination by the Commission that such a waiver serves the public interest and will not disrupt the orderly proceeding of the Commission. See N.H. Admin. Rule Puc 201.05(a). Based on ZONE's attestation and the fact that the waiver will not be disruptive, the Commission finds ZONE's request for a waiver of Puc 1304.02(b) to be in the public interest and will grant the request. However, this waiver shall apply only so long as ZONE does not require such deposits or advanced payments. In the event ZONE decides to change its policy on deposits and advanced payments, it must immediately notify the Commission.

ZONE also requests waiver of Puc 1304.02(a)(6), which requires the filing of a U.S. Geological Survey-based map of the areas in which service will be offered. As stated above, the waiver of any rule provision is appropriate if the Commission finds that such a waiver serves the public interest and the waiver will not disrupt the orderly proceeding of the Commission. N.H. Administrative Rule Puc 201.05(a)(1). The Commission finds that filing a redundant map is not necessary and therefore the public interest will be served by granting a waiver of Puc 1304.02(a)(6) provided that ZONE offer its services only in those territories served by Verizon.

As part of its petition, ZONE states that it will charge access rates no higher than Verizon's effective access rates as filed in Tariff 85. 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.

(Pub.L.No. 104-104, 110 Stat. 56, *codified* at 47 U.S.C. §151 *et seq.*)

Pursuant to Puc 1304.02(a)(7), applicants for CLEC certification agree to adhere to all state laws and Commission policies, rules and orders. We take this opportunity to draw attention to two rules in particular. Puc 1306.01(8) and Puc 1306.01(10), respectively, describe Enhanced 911 (E911) and Telecommunications Relay Service (TRS) as part of the minimum basic service that every CLEC must provide. Pursuant to Puc 1306.01(c), authorized CLECs are responsible to collect and properly remit the E911 surcharge, currently set at 42 cents per access line per month. See *Enhanced 911*, Order No. 21,800, 80 NH PUC 554 (1995). Pursuant to Puc 1306.01(b) (1) and (2), authorized CLECs are also responsible to collect and remit TRS charges, currently set at 4 cents per access line per month. As new competitors enter the telecommunications market, we recognize that New Hampshire's 603 area code encounters increasing demand. Accordingly, we will require that ZONE request and use numbers responsibly and conservatively, and we invite ZONE to explore alternative mechanisms to use existing numbers as efficiently as possible. In approving this application, we require ZONE to comply with our orders on number conservation, including Order No. 23,385 (January 7, 2000) and Order No. 23,392 (January 27, 2000), as well as further orders issued by the Commission concerning this matter.

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

**ORDERED NISI**, that conditioned upon the effective date below, ZONE's petition for authority to provide facilities based intrastate local exchange telecommunications

services in the service territory of Verizon, is GRANTED, subject to all relevant Commission rules and orders; and it is

**FURTHER ORDERED**, that ZONE's request for waiver of the surety bond requirement per Puc 1304.02(b) is GRANTED subject to the condition that ZONE not collect any deposits, prepayments or advanced payments prior to the provision of service; and it is

**FURTHER ORDERED**, that ZONE's request for a waiver of the map filing requirement in Puc 1304.02(a) (6) is GRANTED; and it is

**FURTHER ORDERED**, that ZONE 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 August 5, 2004 and to be documented by affidavit filed with this office on or before August 19, 2004; 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 August 12, 2004; and it is

**FURTHER ORDERED**, that this Order Nisi shall be effective August 25, 2004, unless ZONE fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

**FURTHER ORDERED**, that, should ZONE 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; and it is

**FURTHER ORDERED**, that ZONE shall file, with the Commission, ten days prior to commencing service, a rate schedule including the name, description and price of each

service, with the Commission in accordance with N.H. Admin. Rules, Puc 1304.03(b).

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of July, 2004.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

Attested by:

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Kimberly Nolin Smith  
Assistant Secretary