

DT 04-027

**NEW HAMPSHIRE COALITION OF
COMPREHENSIVE INFORMATION AND REFERRAL SERVICES**

**Petition of United Ways of New Hampshire and the New Hampshire Coalition of
Comprehensive Information and Referral Services for
Designation of the Coalition as Lead Implementing Agency for 211 Services**

Order Pursuant to RSA 365:28

ORDER NO. 24,397

November 5, 2004

I. BACKGROUND AND PROCEDURAL HISTORY

At issue are two motions filed with the New Hampshire Public Utilities Commission (Commission) concerning Order No. 24,363, entered on August 19, 2004, and approving on a *nisi* basis the petition of United Ways of New Hampshire (United Way) and the New Hampshire Coalition of Comprehensive Information and Referral Services (Coalition) requesting that the Coalition be formally designated as the lead implementing agency for “211” service in New Hampshire. By order of the Federal Communications Commission (FCC), 211 is the national abbreviated dialing code reserved to provide callers with access to community information and referral services.

Order No. 24,363 directed the petitioners to publish a copy of the order in a newspaper of statewide circulation before August 30, 2004 and set September 6, 2004 as the deadline for filing comments or requesting a hearing.¹ The Commission indicated that unless provided otherwise, Order No. 24,363 would become effective on September 19, 2004.

¹ September 6, 2004 was a state holiday and, accordingly, the comment and motion deadline was actually the next business day, September 7, 2004. *See* Puc 202.03(b). Although dated September 7, 2004, the AT&T submission was one day late in light of its receipt by the Commission on September 8, 2004. *See* Puc 202.06.

United Way submitted an affidavit confirming publication of Order No. 24,363 in the *Union Leader* newspaper on August 28, 2004. No comments or requests for hearing were filed with the Commission on or before September 7, 2004. By its terms, Order No. 24,363 became effective on September 19, 2004.

AT&T Communications of New York, Inc. (AT&T) filed comments on September 8, 2004. On October 15, 2004, the New Hampshire Telephone Association (NHTA) filed a motion for rehearing of Order No. 24,363 pursuant to RSA 541:3. Four days later, on October 19, 2004, Verizon New Hampshire (Verizon) filed a petition to intervene and a motion for rehearing and/or reconsideration of Order No. 24,363, also invoking RSA 541:3. No pleadings in response to any of these motions have been filed.

II. SUMMARY OF THE MOTIONS AND COMMENTS

A. New Hampshire Telephone Association

The NHTA points out that Order No. 24,363 does not simply designate the Coalition as the lead agency for providing 211 service in New Hampshire but also establishes parameters for 211 service, including provisioning requirements for telecommunications carriers. According to the NHTA, its member companies were never notified of the pendency of the Coalition's petition, the Commission entered no order of notice upon receipt of the petition and none of the NHTA's member companies – nine independent incumbent local exchange carriers (ILECs) – saw the notice published in the *Union Leader* on August 28, 2004.

According to the NHTA, should Order No. 24,363 remain effective in these circumstances its members will have been deprived of their due process rights because their legally protected property interests were affected without providing them with meaningful notice

and opportunity to be heard. Specifically, the NHTA contends that it is not technically feasible, in connection with 211 service, to require local exchange carriers (LECs) to program local switches by NXX code, by day of week and by time of day, as directed by the Commission. *See* Order No. 24,363 (August 19, 2004), slip op. at 3.

Therefore, the NHTA proposes that the Commission grant its RSA 541:3 motion, immediately stay the effectiveness of Order No. 24,363, rescind the order following notice and hearing and establish a procedural schedule allowing for the presentation of evidence by the NHTA. The NHTA indicates that it wishes to provide the Commission and its staff, through technical sessions and hearings, with technical information regarding the operational implications of the plan proposed by United Way and the Coalition. According to the NHTA, it is prepared to propose alternative approaches to 211 service that would more effectively utilize the equipment and staff of LECs in providing 211 service.

B. Verizon New Hampshire

The Verizon rehearing motion makes similar arguments. Verizon avers that it was aware of no order of notice entered in this docket and, indeed, was not aware of the pendency of the proceeding until after the expiration of the *nisi* period specified in Order No. 24,363. According to Verizon, because it is directly affected by Order No. 24,363 and because it has shown good cause for rehearing, the Commission should grant its RSA 541:3 motion.

Specifically, Verizon contends that requiring it and other LECs to reprogram their switches by NXX code, by day of week and by time of day, Verizon would have to establish new cost elements to capture the resulting expenses. Verizon describes what it believes to be the necessary changes to accomplish this objective, as well as some specific approaches to making

the changes. All, according to Verizon, would impose additional costs. In the context of its rehearing request, Verizon seeks an opportunity to discuss available alternatives that would provide access to community information and referral services.

C. AT&T Communications of New York, Inc.

Also concerned with the requirements for programming local switches, AT&T requested a clarification of Order No. 24,363. According to AT&T, the manner in which an NXX is programmed to provide a translation to the 211 service varies by the switching and support systems used by the various central offices in the state. AT&T stated that it assumes the Commission did not intend to require LECs to reprogram their switches but, rather, to ensure that the switches properly route 211 calls using the destination telephone numbers provided by the Coalition. AT&T points out that it and other LECs use what AT&T describes as an Advanced Information Network (AIN)² capability that relies on a centralized database to provide routing instructions to the local switch. Accordingly, AT&T seeks a clarification to the effect that 211 translation need not necessarily be in the local switch, given the possibility of using AIN capability to achieve the same purpose.

III. COMMISSION ANALYSIS

In their various submittals, AT&T, Verizon and NHTA express technical concerns regarding implementation of 211 services. In order to ensure that 211 is implemented in a fashion that best services the interests of New Hampshire citizens, we will invoke, *sua sponte*, our authority pursuant to RSA 365:28 and will annul Order No. 24,363. As a consequence, the motions for rehearing filed by Verizon and NHTA are moot.

² AIN is more commonly known as Advanced Intelligent Network. Verizon notes in its filing that one way for it to provide time-of-day and day-of-week routing would be for Verizon to add AIN triggers to all affected switches.

We conclude that informal discussion among the petitioners, other interested parties and the Commission Staff is likely to be helpful in addressing the issues raised by the movants. Accordingly, we will schedule a Pre-Hearing Conference, with an informal technical session to follow, deferring the scheduling of a merits hearing and any necessary discovery until after the Pre-Hearing Conference.

Finally, we address the Verizon petition for intervenor status. To the extent necessary, we will treat the filings of the NHTA, Verizon and AT&T as petitions to intervene, offering an opportunity for opposition before deciding whether any of these entities should be granted intervenor status.

Based upon the foregoing, it is hereby

ORDERED, that Order No. 24,363, entered in this docket on August 19, 2004 is annulled; and it is

FURTHER ORDERED, that a Prehearing Conference, pursuant to N.H. Admin. Rules Puc 203.05, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New Hampshire on December 14, 2004 at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Admin Rule Puc 203.05(c) shall be considered; and it is

FURTHER ORDERED, that the Prehearing Conference may be tape recorded unless a party, at least 5 days in advance of the Prehearing Conference, requests a transcript, in which case the Commission shall order a stenographic record, pursuant to N.H. Admin. Rule Puc 203.05(d); and it is

FURTHER ORDERED, that, immediately following the Prehearing Conference,

the New Hampshire Coalition of Comprehensive Information and Referral Services, the United Ways of New Hampshire, the Staff of the Commission and any Intervenors hold a Technical Session to review and discuss the issues described herein; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. Rules Puc 203.01, the Executive Director and Secretary shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order no later than November 15, 2004, in a newspaper with statewide circulation or of general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before December 14, 2004; and it is

FURTHER ORDERED, that pursuant to N.H. Admin Rules Puc 203.02, any party seeking to intervene in the proceeding, other than those parties that have already filed pleadings in response to Order No. 24,363, shall submit to the Commission an original and eight copies of a Petition to Intervene with copies sent to the New Hampshire Coalition of Comprehensive Information and Referral Services, the United Ways of New Hampshire, the New Hampshire Telephone Association, Verizon New Hampshire, AT&T Communications of New York, Inc. and the Office of the Consumer Advocate on or before December 10, 2004, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Admin Rule Puc 203.02 and RSA 541-A:32,I(b); and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene, or the granting of intervenor status to the New Hampshire Telephone Association, Verizon New Hampshire or AT&T Communications of New York, Inc., make said Objection on or before December 14, 2004.

By order of the Public Utilities Commission of New Hampshire this fifth day of November, 2004.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary