

DT 05-021

FRANCE TELECOM CORPORATE SOLUTIONS LLC

**Petition for Authority to Provide Non-Facilities Based
CLEC Services**

Order *Nisi* Granting Authorization

ORDER NO. 24,454

April 7, 2005

I. BACKGROUND

On February 7, 2005, France Telecom Corporate Solutions, LLC (France Telecom) filed with the New Hampshire Public Utilities Commission (Commission) an application to provide non-facilities based Competitive Local Exchange Carrier (CLEC) service, pursuant to N.H. Administrative Rules Chapter 1300. 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 entity in all telephone franchise areas served by a telephone utility that provides local exchange service and has more than 25,000 access lines.

France Telecom, a Delaware limited liability company, is owned by FTCS Telecom S.A. The Petitioner has filed to provide CLEC services in 30 states.

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.

II. STAFF RECOMMENDATION

The Commission Staff (Staff) has reviewed France Telecom's petition for compliance with these standards. Staff reports that France Telecom has provided all the information required by Puc 1304.02 and that the information provided supports France Telecom'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 France Telecom to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

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

France Telecom 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. France Telecom 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.

III. COMMISSION ANALYSIS

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. Pursuant to Puc 1306.01(b), authorized CLECs are also responsible to collect and remit TRS charges, currently set at \$.04 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 France Telecom request and use numbers responsibly and conservatively, and we invite France Telecom to explore alternative mechanisms enabling them to use existing numbers as efficiently as possible. In approving this application, we require France Telecom 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.

The Commission finds that France Telecom has satisfied the requirements of Puc 1304.01(a) (1) and (2). We also find that granting France Telecom authority to operate as non-facilities based CLEC in Verizon's service area 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.

France Telecom attests it will not charge any customer deposits, including advance payments, and seeks waiver of Puc 1304.02(b) which requires a non-facilities based CLEC applicant to post a surety bond to cover refund of deposits and advance 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. Puc 201.05(a).

Based on France Telecom's attestation and the fact that the waiver will not be disruptive, the Commission finds France Telecom'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 France Telecom does not require such deposits or advance payments. In the event France Telecom decides to change its policy on deposits and advance payments, it must immediately notify the Commission.

The Commission finds that filing a map is not necessary in these circumstances as a map of Verizon's service territory is on file with the Commission, and therefore the public interest will be served by granting a waiver of Puc 1304.02(a)(6), provided that France Telecom offer its services only in those territories served by Verizon.

The Commission, therefore, will grant France Telecom authority to provide non-facilities based CLEC service in the territories of Verizon.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that conditioned upon the effective date below, France Telecom's petition for authority to provide non-facilities based local telecommunications services is GRANTED only within Verizon's franchise area, subject to all relevant Commission rules and orders; and it is

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

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

FURTHER ORDERED, that France Telecom shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than April 18, 2005 and to be documented by affidavit filed with this office on or before May 9, 2005; 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 which states the reason and basis for a hearing no later than April 25, 2005 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than May 2, 2005; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective May 9, 2005, unless France Telecom 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 France Telecom fail to exercise the authority granted herein within two years of the date of this order, pursuant to Puc 1304.03(a), the authority granted shall be deemed withdrawn, null, and void; and it is

FURTHER ORDERED, that no less than ten days prior to commencing service, France Telecom shall file with the Commission a rate schedule including the name, description, and price of each service, in accordance with Puc 1304.03(b).

By order of the Public Utilities Commission of New Hampshire this seventh day
of April, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director and Secretary