

DT 05-052

UCN, INC.

**Petition for Authority to Provide Facilities Based
Competitive Local Exchange Services and to Operate as a
Reseller of Telecommunications Services**

Order *Nisi* Granting Authorization

ORDER NO. 24,456

April 15, 2005

1. BACKGROUND

On March 18, 2005, UCN, Inc. (UCN) filed with the New Hampshire Public Utilities Commission (Commission) an application to provide resold and facilities based local exchange telecommunications services as a Competitive Local Exchange Carrier (CLEC) in New Hampshire, pursuant to N.H. Administrative Rules Chapter 1300. Pursuant to RSA 374:22-g, the Commission may authorize the provision of 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.

UCN, a Delaware corporation, is authorized to provide local exchange service in Colorado, Florida, Illinois, Kentucky, Maryland, Massachusetts, Missouri, Montana, Nevada, New York, Ohio, Oregon, Texas, Washington and Wisconsin.

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 ANALYSIS

The Commission Staff (Staff) has reviewed UCN's petition and reports that UCN has provided all the information required by Puc 1304.02, and that the information supports UCN's assertion of financial resources, managerial qualifications, and technical competence sufficient to meet the standards set out in Puc 1304.01(b) (1), (e) and (f). Staff further reports that adding UCN to the choices available to New Hampshire telecommunications consumers appears to be in the public interest.

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

UCN 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. UCN 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

We find that UCN has satisfied the requirements of Puc 1304.01(a) (1) and (2). We also find that granting UCN 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.

UCN attests it will not charge any customer deposits, including advance payments, and seeks waiver of Puc 1304.02(b) which requires a 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. New Hampshire Administrative Rules Puc 201.05(a). Based on UCN's attestation and the fact that the waiver will not be disruptive, the Commission finds UCN'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 UCN does not require such deposits or advance payments. In the event UCN decides to change its policy on deposits and advance payments, it must immediately notify the Commission.

UCN 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. Puc 201.05(a). 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).

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 for collecting and properly remitting the E911 surcharge, currently set at 42 cents per access line per month. Pursuant to Puc 1306.01(b), authorized CLECs have the responsibility 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 UCN request and use numbers responsibly and conservatively, and we invite UCN to explore alternative mechanisms enabling them to use existing numbers as efficiently as possible. In approving this application, we require UCN to comply with our orders on number conservation, including Order No. 23,385, issued January 7, 2000, and Order No. 23,392, issued 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, UCN, Inc.'s petition for authority to provider resold and facilities based local exchange telecommunications services is granted only within the service territory of Verizon, subject to all relevant Commission rules and orders; and it is

FURTHER ORDERED, that UCN's request for waiver of the surety bond requirement per Puc 1304.02(b) is GRANTED, and it is

FURTHER ORDERED, that if UCN changes its policy on deposits and advance payments the requirements of Puc 1304.02(b) shall be reinstated and the wavier is terminated; and it is

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

FURTHER ORDERED, that UCN 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 April 25, 2005 and to be documented by affidavit filed with this office on or before May 16, 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 May 2, 2005 for the Commission's consideration; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective May 16, 2005, unless the UCN 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 UCN 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 UCN, no less than ten days prior to commencing service, 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).

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

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary