

DT 05-146

Uniform Tariff for CLECs and CTPs

Order *Nisi* Approving Uniform Tariff for CLECs and CTPs

ORDER NO. 24,524

September 30, 2005

I. BACKGROUND AND PROCEDURAL HISTORY

The New Hampshire Public Utilities Commission (Commission) operates pursuant to relevant statutes as well as administrative rules. Former N.H. Code Admin. Rules Puc 1307.01(a) required incumbent local exchange carriers (ILECs) to file full tariffs including rate schedules, terms and conditions. In contrast, former Puc 1307.01(b) required competitive local exchange carriers (CLECs) to file only rate schedules with the Commission. Competitive intraLATA toll providers (CTPs) had the option, under former Puc 411.06, to file either rate schedules or tariffs.

On December 19, 1997, AT&T Communications of New Hampshire, Inc. (AT&T), a CLEC authorized to operate in New Hampshire, filed with the Commission a tariff for local exchange services. AT&T requested the Commission either accept the tariff or waive Puc 1307.01(b) to the extent it precluded filing the tariff.

On February 11, 1998, the Commission issued an Order of Notice scheduling a Prehearing Conference on the matter, which was held on March 3, 1998. During the subsequent months, Staff conducted technical sessions which included participation by the Office of the Consumer Advocate (OCA), AT&T, Freedom Ring Communications LLC d/b/a Bay Ring Communications (BayRing), and the Vitts Corporation. During the course of the proceeding, participating CLECs expressed their concern that the difference

in filing requirements for CLECs and ILECs created a competitive disadvantage for CLECs, because each individual subscriber to a CLEC-provided service needed a separate contract to govern the subscriber-carrier relationship. The technical sessions led to the drafting of a model tariff intended to address that concern.

A hearing was held on August 19, 1998, during which parties and Staff presented a proposed model tariff. The Model Tariff was adopted in Order No. 23,063 (November 13, 1998).

On November 5, 2004, the Commission voted pursuant to RSA 541-A to initiate a Readoption with Amendments of N.H. Code Admin. Rules PART Puc 400, Rules for Telephone Utilities, which were due to expire on May 21, 2005. The rules regulate the conduct of ILECs, CLECs, CTPs and other providers of telecommunications services. The rules also establish standard procedures, general business rules, and guidelines to enable telecommunications providers to comply with relevant laws and Commission orders.

The rules were duly revised by Staff with the participation of the OCA and New Hampshire-registered ILECs, CLECs, and CTPs. The new Puc 400 rules were adopted by the Commission on May 10, 2005. Revisions in the rules resulted, *inter alia*, in the consolidation of the former Puc 1300 rules governing tariffs and rate schedules for local exchange carriers into the new Puc 400 rules. The revised Puc 400 rules now provide for a “Uniform Tariff” for both CLECs and CTPs. Thus, under the new Puc 431.05 and 451.04, both CLECs and CTPs, respectively, may opt to file in accordance with a uniform tariff.

During June through September 2005, Staff conducted a number of technical sessions with CLECs and CTPs to revise the original model tariff approved in Order No. 23,063 to reflect changes in the Commission rules. On September 15, 2005, Staff filed a memorandum recommending for adoption the final proposed version of the Uniform Tariff, as negotiated by Staff, CLECs, CTPs and OCA.

In its memorandum, Staff reported that the draft text had been scrutinized for compliance with the revised rules, and that general agreement had been reached on the language as currently drafted in the Uniform Tariff for CLECs and CTPs. Staff further reported that CLEC and CTP participants in the drafting of the proposed Uniform Tariff included Bay Ring, Comcast Phone of New Hampshire, Conversent Communications, Inc., AT&T, LightshipTelecom/CTC Communications, Sprint, the Independent Telephone Companies, and the OCA. Monitoring the process were Choice One Communications, DIECA d/b/a/ Covad Communications, Broadview Networks, Alltel, Union Telephone Company, and Verizon.

II. COMMISSION ANALYSIS

Having reviewed the Staff recommendation, we find that the negotiation of the Uniform Tariff language was conducted in an open manner with considerable participation by the OCA and interested CLECs, ILECs and CTPs. We further find that the Uniform Tariff as proposed is reasonable and in the public interest, as it now conforms to the revised rules and is applicable to CTPs as well as CLECs operating in New Hampshire. We expect that, in accordance with Puc 431.05, CLECs electing to use the Uniform Tariff shall file Form CLEC-11 Intent to Use Uniform Tariff, as described in

Puc 449.08; and, in accordance with 451.04, CTPs shall file Form CTP-11 Intent to Use Uniform Tariff, as described in Puc 469.06.

Interested persons may view the Uniform Tariff on the Commission's web site at <http://www.puc.nh.gov/Regulatory/orders.htm>.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, the proposed Uniform Tariff is hereby ADOPTED; and it is

FURTHER ORDERED, that the Executive Director 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 October 10, 2005 and to be documented by affidavit filed with this office on or before October 24, 2005; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than October 28, 2005 for the Commission's consideration; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective 45 days from the date of this Order, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this
thirtieth day of September, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary