

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

APPLICATION OF IDT AMERICA, CORP.)	
FOR CERTIFICATION AND ISSUANCE)	not docketed
DATED March 6, 2009)	
)	

**MOTION OF UNION TELEPHONE COMPANY
TO RESCIND AUTHORITY ISSUANCE, FOR PROCEDURES CONSISTENT
WITH LAW, AND FOR REHEARING**

Union Telephone Company d/b/a Union Communications (“Union”) hereby moves that the authority issued to IDT America, Corp.(“IDT”) dated March 6, 2009 be rescinded due to:

1. the failure of the Commission to provide notice to interested parties and municipalities, and to provide an opportunity for hearing, findings of fact and conclusions of law, pursuant to RSA 374:26, 374:22-g 374:22-e, 541-A:31, 541-A:35, and 541-A:39, prior to issuing or authorizing the issuance of such authority; and
2. the failure of the Commission to comply with RSA 363:17-b and RSA 541-A:35 which require the issuance of a final order by the Commission, which order is required to include the parties, their positions, findings of fact, conclusions of law, and an indication of the action of each Commissioner who participated in the matter; and
3. for the other reasons detailed herein.

Union also moves that, to the extent the Commission addresses the IDT application for authority after rescinding the issuance of March 6, 2009, that it follow the legal

requirements for considering such authority, including the requirements listed above and as detailed herein.

To the extent the foregoing is not granted, Union moves for rehearing of the Commission's authority issuance of March 6, 2009 due to the Commission's failure to comply with the legal requirements as detailed above and herein. Failure to comply with such statutes, the Commission's own rules and other errors of law detailed herein deprives Union of its due process rights under those statutes, rules and the US and New Hampshire Constitutions and of equal protection under the laws as guaranteed under the US and New Hampshire Constitutions.

In support hereof, Union states the following:

FACTS

1. Union is a New Hampshire Corporation and is a public utility as defined in RSA 362:2 that is regulated by the Commission. Union provides telecommunications services to residential and business customers and access services to utilities. Union has less than 7000 access lines. Union is a rural telephone company as that term is defined at 47 USC §153 (37) and as that term is used in 47 U.S.C. § 251 (f)(1). Union has not waived the exemption provided to rural telephone companies under that section of the federal statutes. Union is the incumbent telephone utility serving a territory that includes all or portions of: Alton, Barnstead, Center Barnstead, Farmington, Gilmanton, New Durham, and Strafford, New Hampshire.

2. IDT filed a CLEC application for registration dated February 19, 2009, which was marked amended February 23, 2009. Said application is attached hereto as exhibit 1.

3. On March 6, 2009, the Commission issued a certificate which purports to authorize IDT to provide local exchange service in the geographic areas served by Union. Said certificate is attached hereto as exhibit 2.

4. The Commission did not provide Union with, nor did it issue or require any notice of the application or provide notice of any opportunity for hearing. To the best of Union's knowledge, there was no hearing or opportunity for hearing. The Commission's March 6, 2009 issuance does not contain any findings of fact or conclusions of law. The issuance also contains no finding of public good.

5. The grant of such authority in Union's territory may have an impact upon "the incumbent utilities opportunity to realize a reasonable return on its investments", may have an impact on universal service and may have an impact on meeting carrier of last resort obligations in the Union service territory. Union's rights and privileges are directly impacted by a grant of authority to IDT to provide telecommunications service in the Union service territory.

6. No order was issued by the Commissioners granting authority to IDT in Union's service territory.

7. To the best of Union's knowledge, the municipalities that Union provides service in were not provided notice of the IDT application or approval.

ANALYSIS AND ARGUMENT

I. THE AUTHORITY IS INVALIDLY AND UNLAWFULLY ISSUED AS THE COMMISSION MUST PROVIDE NOTICE TO INTERESTED PARTIES, A HEARING AND FINDINGS OF FACT AND CONCLUSIONS BASED UPON CONSIDERATION OF PARTICULAR FACTORS AS A BASIS FOR ISSUING SUCH AUTHORITY

The authority issuance of March 6, 2009 involves errors of law because under RSA 374:26, 374: 22-g, 374:22-e, 541-A:31 and other applicable law, the Commission is required to provide for a hearing, make findings based upon evidence before it which address particular factors in those statutes and to make conclusions based on those findings on whether granting IDT application is in the public good. Such evidence findings and conclusions must be specific to the service territory, application and applicant involved in a request for authority.

Actions by administrative agencies that involve the legal rights and privileges of parties, such as the rights of the IDT and the Union (the incumbent telephone utility in this matter), are contested cases as defined by the New Hampshire Administrative Procedure Act. RSA 541-A:1(IV). New Hampshire statutes require adjudicatory procedures which require notice and hearing in such situations. RSA 541-A:1(I), 541-A:31 through 541-A:38. RSA 374:22-e also requires notice to interested parties in actions involving authorizations for more than one telephone utility in a service territory.

RSA 374:22-g explicitly requires the PUC to address the impact of the grant of authority on several criteria, including criteria that involve the incumbent utility (in this case Union), including:

- “carrier of last resort obligations”;

- “the incumbent utility’s opportunity to realize a reasonable return on its investment”; and
- “the recovery from competitive providers of expenses incurred by the incumbent utility to benefit competitive providers.”

Administrative agencies, such as the Commission, must act within their delegated powers. *Appeal of Concord Natural Gas Corp*, 121 N.H. 685, 689 (1981); *Kimball v. N.H. Board of Accountancy*, 118 N.H. 567, 568 (1978). Rules and orders adopted by state agencies may not add to, detract from or in any way modify the statutory law. *See Kimball, supra*. Thus, the Commission’s rules do not in any way limit the legal requirements discussed above as required by RSA 374:26, 374: 22-g, 374:22-e and other applicable law or limit the rights of Union or any other party pursuant to the US and New Hampshire Constitutions.

In docket DT 08-013, *RE: Comcast Phone of New Hampshire, LLC Request for Authority*, ORDER GRANTING HEARING (August 18, 2008), the Commission provided an opportunity for hearing, after previously noticing said matter. In so ruling it stated “[w]e will schedule a hearing pursuant to RSA 374:26, which requires a hearing if all interested parties are not in agreement, to consider evidence by Comcast and other parties concerning whether a grant of franchise authority to Comcast in the KTC, MCT and WTC service territories is for the public good.” Consistent therewith, the New Hampshire Supreme Court has ruled that RSA 374:22-g is an example of the legislature adding conditions to RSA 374:26 – not superseding its requirements. *Appeal Of Public Service Company Of New Hampshire*, 141 N.H. 13, 24-

25 (1996). The recent change in that statute does not relate to the statutes basic requirements and thus this holding remains valid.

In the case at hand, the Commission conducted no inquiry to see if parties were in agreement, and provided no notice to interested parties (such as Union), no procedure to request a hearing and no opportunity for hearing. The treatment provided to Union and others who may be interested in this case is without basis in law and denies Union and other interested parties in this case their due process rights and equal protection of the laws as guaranteed by the statutes discussed above, as well as the US and New Hampshire Constitutions.

II. THE AUTHORITY IS INVALIDLY AND UNLAWFULLY ISSUED AS THE COMMISSION FAILED TO COMPLY WITH THE REQUIREMENT TO ISSUE A FINAL ORDER

The application for authority by IDT is a request for authority to operate as a public utility as defined by RSA 362:2 and is governed by RSA 374:26, 374:22- g and 374:22-e. RSA 363:17-b requires the issuance of a final order by the Commission on *all* matters presented to it. That statute requires that such orders reflect, among other things, the parties, the position of the parties and the concurrence or dissent of each commissioner participating in the matter.

Similarly, RSA 541-A:35 requires the Commission to issue final orders in contested cases such as this one which include findings of fact and conclusions of law. In fact, there is no evidence in the issuance that any Commissioner even participated in the issuance of the March 6, 2009 issuance. Thus, the Commission should rescind the issuance of March 6, 2009 issuance.

III. THE COMMISSION ERRED IN NOT NOTIFYING MUNICIPALITIES OF THE IDT APPLICATION FOR AUTHORITY IN THE MATTER

RSA 541-A:39 requires that the Commission:

[s]hall give notice to and afford all affected municipalities reasonable opportunity to submit data, views, or comments with respect to the issuance of a permit, license, or any action within its boundaries that directly affects the municipalities. Such action shall include those which may have an effect on land use, land development, or transportation; those which would result in the operation of a business....

Under this provision, the Commission was required to provide notice to municipalities of the IDT application. To the best of Union's knowledge, it did not. This is an additional reason the March 6, 2009 issuance should be rescinded.

IV. THE AUTHORITY IS INVALIDLY AND UNLAWFULLY ISSUED BECAUSE:THE APPLICATION WAS FILED UNDER COMMISSION RULES 431.01 WHICH DOES NOT APPLY TO UNION'S TERRITORY; AND, IN THE ALTERNATIVE, IF THE RULES DO APPLY, THE APPLICATION FAILED TO COMPLY WITH SUCH RULES.

The explicit language of Commission rule Puc 431.01¹ and 431.02 provide that the application process in those rules applied only in the territories of non-exempt ILECs, which Union is not. Thus, the application to provide authority in Union's Territory under that rule did not comply with Commission rules and cannot be the lawful basis for an authority application. A lawful application for Petitioner should have been a petition under Commission rules Puc 203.05 and 203.06.

In the alternative, if despite the forgoing, an application under 431.01 was appropriate, the application requirements were not complied with. Commission rule Puc

¹ At the time of the Commission action and this filing, to the best of Union's knowledge, a potential change to Commission rule Puc 431.01 was pending, but no change is effective under the provisions of RSA 541-A:13. At this time of filing, Union understands that the action of the Commission on this matter is under review in the Joint Legislative Committee on Administrative Rules.

449.07 govern the details of such applications and includes a requirement that “the applicant shall list 3 primary telecommunications services the applicant will offer in New Hampshire.” Commission rule Puc 449.07 (d). The application does not comply with said rule because it only lists one such service.

Thus, the application did not comply with the rules and no waiver was sought or issued related to non-compliance with such rules. Thus, the Commission erred and the application as filed cannot be a lawful basis for the March 6, 2009 authority issuance. Thus, for these reasons, in addition to the reasons provided in sections I through III above, the authority should be rescinded.

V. THE FORGOING ERRORS OF FACT AND LAW ARE ALSO THE BASIS OF UNION’S MOTION FOR REHEARING PURSUANT TO RSA 541:3

Union’s motion is also a motion for rehearing pursuant to RSA 541:3. As detailed above, the Commission erred as a matter of law in authorizing the March 6, 2009 issuance. Thus, the issuance should be rescinded and procedures consistent with law, as described above, followed.

VI. SUBSTANTIAL ISSUES WOULD BE ADDRESSED IN ANY REHEARING

If the required notice and hearing procedures were followed, Union would inquire into, and submits that the Commission is obliged to inquire into, whether IDT meets the requirements to receive authority as a utility in Union’s territory. In addition to whether the criteria of 374:22-g are met, as discussed above, it is unclear at this point to Union whether IDT will be offering, in Union’ territory, service to the public -- as required in RSA 362:2 – or solely services to one carrier. These are areas of inquiry that Union sees

as appropriate. Perhaps other areas of inquiry will arise if the Commission grants rehearing and provides the required opportunity for hearing.

CONCLUSION

For the foregoing reasons, the Commission should rescind the authority related issuance of March 6, 2009 involving IDT and rehear the mater in a manner consistent with the legal requirements that apply, as described herein.

Respectfully submitted,

**UNION TELEPHONE COMPANY d/b/a
UNION COMMUNICATIONS**



Martin C. Rothfelder (NH Bar. No. 2880)

Rothfelder Stern, L. L. C.

625 Central Avenue

Westfield, NJ 07090

Phone: (908) 301-1211

Fax: (908) 301-1212

e-mail: mcrothfelder@rothfelderstern.com

April 2, 2009



CLEC APPLICATION FOR REGISTRATION

Approved February 23, 2009

1. General Information

Federal Identification Number 22-3312697

Date of Application 2/19/09

Legal Name IDT America, Corp.

Trade Name (d/b/a)
in New Hampshire _____

Contact Person Carl Billek

Complete Mailing Address 520 Broad Street
Newark, NJ 07102

Phone Number 973-438-4854

Fax Number 973-438-1455

E-mail Address Carl.Billek@corp.idt.net

2. History of Applicant

- a. Has the applicant, or have any of the general partners, corporate officers, director of the company, limited liability company managers or officers been convicted of any felony not annulled by a court? No
 - b. In the past ten years, has the applicant, or have any of the general partners, corporate officers, director of the company, limited liability company managers or officers had any civil, criminal or regulatory sanctions or penalties imposed pursuant to any state or federal consumer protection law or regulation? No
 - c. In the past ten years, has the applicant, or have any of the general partners, corporate officers, director of the company, limited liability company managers or officers settled any civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation? No
 - d. Is the applicant, or are any of the general partners, corporate officers, director of the company, limited liability company managers or officers currently the subject of any pending civil, criminal or regulatory investigation or complaint involving any state or federal consumer protection law or regulation? No
 - e. Has the applicant, or have any of the general partners, corporate officers, director of the company, limited liability company managers or officers been denied certification in any other state. No
- If so, please list each state. No

f. If the answer to any of the questions in a through e above is yes, please attach an explanation.

If you have any questions, please call the New Hampshire Public Utilities Commission at 603-271-2431.
 Please mail any documents to the above address.



3. Service

List the three primary telecommunications services the company will provide:

a. **Local exchange telephone service**

b.

c.

Identify the applicant's proposed service area:

Please see Attachment A

4. Required Attachments

- a. A copy of the New Hampshire Secretary of State Certificate of Authority *Please see Attachment E*
- b. Proof of Surety Bond, if applicable *Please see Attachment E*
- c. Form CLEC-1, Contact Information *Please see Attachment E*
- d. A copy of the CLEC's complete rate schedule *Pl see Attachment G.*
- e. A copy of Form CLEC -11, Adoption of Uniform Tariff, if applicable *W/ 4*

5. Compliance Statements

I attest that the applicant will comply with all applicable New Hampshire laws and all Commission policies, rules and orders. MB (initial)[Puc 430.021]

I attest that the applicant has the necessary managerial qualifications, technical competence and financial resources to operate the CLEC for which the applicant seeks registration. MB (initial)

I attest that the applicant agrees to use with the Verizon New Hampshire rates for intraLATA switched access, as filed in Tariff 85, including future changes, or charge a lower rate. In the event the applicant believes a higher rate is justified, the applicant will file a separate petition with evidence supporting the higher rate. MB (initial)

6. Signature

Carl B. Clark, (name) declare under penalty of perjury that I am authorized to make this verification for and on behalf of the applicant; that I have read the information provided by the applicant in the foregoing document and any and all attachments, and am informed and believe the same are true, and on that ground, affirm that the matters stated herein are true.

Carl B. Clark Signed State Regulatory Council Title

Subscribed and sworn before me this 7th (day) of February (month) in the year 2009

County of Hesse

State of New Jersey

Wendy Moreano
 Notary Public/Justice of the Peace
 My Commission expires
WENDY MOREANO
 A Notary Public of New Jersey
 My Commission Expires 2/21/13

ATTACHMENT A

Response to Application Question Number 3

IDT America, Corp. ("IDT") is authorized by the New Hampshire Public Utilities Commission to provide intraLATA toll service throughout the New Hampshire pursuant to Order No. 23,473 in DT 00-023 and local telecommunications services in the incumbent Fairpoint (formerly Verizon) territory pursuant to Order No. 24,124 in DT 02-229. Copies of both Orders are located at **Attachment B**.

IDT subsequently entered into a Settlement Agreement with the PUC and MetroCast Cablevision of New Hampshire ("MetroCast"), LLC in DT 06-169. The purpose of the Settlement Agreement was to set certain guidelines under which IDT would obtain numbering resources for the purpose of being able to provide service to MetroCast end-user customers. A copy of the Settlement Agreement is located at **Attachment C**.

On September 30, 2008, the New Hampshire Public Utilities Commission issued Authorization No. C01-005-07, thereby granting MetroCast authorization by to provide local telecommunications services in the following incumbent ILEC territories of UnionTel:

- Alton (excluding areas served by FairPoint)
- Barnstead
- Center Barnstead
- Farmington (excluding areas served by FairPoint)
- Gilmanton (excluding areas served by FairPoint)
- New Durham
- Strafford (excluding areas served by FairPoint)

With this Application, IDT seeks to extend its authorization to provide local telecommunications service to those same communities served by MetroCast in the ILEC territory of UnionTel, namely:

- Alton (excluding areas served by FairPoint)
- Barnstead
- Center Barnstead
- Farmington (excluding areas served by FairPoint)
- Gilmanton (excluding areas served by FairPoint)
- New Durham
- Strafford (excluding areas served by FairPoint)

Upon approval of this Application, IDT intends to effectively extend its commercial relationship with MetroCast – currently only in effect in certain communities served by FairPoint – into the aforementioned UnionTel ILEC territories. Accordingly, IDT agrees to extend and abide by the terms of its Settlement Agreement into the above-listed UnionTel ILEC territories. IDT believes that in doing so, it will provide a competitive alternative to UnionTel, thereby benefiting consumers.

Accordingly, IDT does not request any limits on its ability to offer local telecommunications service.

ATTACHMENT B

**IDT America, Corp., Petition for Authority to Provide Local Telecommunications Services, Order Nisi Granting Authorization, Order No. 24,124; DT 02-229
(February 3, 2003)**

IDT Corporation and IDT America, Corp., Corporate Restructuring, Order Approving Pro Forma Assignment of Certificate of Authority, Order No. 23,473, DT 00-023 (May 9, 2000)

DT 02-229

IDT America, Corporation

Petition for Authority to Provide
Local Telecommunications Services

Order Nisi Granting Authorization

O R D E R N O. 24,124

February 7, 2003

On December 18, 2002, IDT America Corporation (IDT) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to the policy goals set by the New Hampshire Legislature in RSA 374:22-g. A petition for such authority in New Hampshire is a request for certification as a Competitive Local Exchange Carrier (CLEC), governed by New Hampshire Administrative Rules Chapter Puc 1300.

IDT is certified to provide intraLATA toll service in the State of New Hampshire. That authority was granted in Docket No. DE 94-308 by Order No. 21,662 dated May 22, 1995. The Commission's Consumer Affairs division reports there have been no complaints registered against IDT.

IDT, a New Jersey corporation, is a wholly-owned subsidiary of IDT Domestic Telecom, Inc. which in turn is a wholly-owned subsidiary of IDT Telecom. IDT Telecom is a wholly-owned subsidiary of IDT Corporation. IDT is authorized to

provide local exchange service as in New Jersey, New York, Pennsylvania, Massachusetts, Florida and the District of Columbia. The applicant has not yet commenced offering local exchange service in any of those jurisdictions, according to the application.

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

IDT requests a waiver of the surety bond requirement in Puc 1304.02(b). In support, IDT submitted a sworn statement that

it does not require deposits from customers. Staff recommends granting the waiver.

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

We find that IDT has satisfied the requirements of Puc 1304.01(a)(1) and (2) and, further, that authorization 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's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. This finding is further supported by the Telecommunications Act of 1996 (TAct). Because IDT has satisfied the requirements of Puc 1304.01(a), we will grant the petition.

Given that IDT will not charge any customer deposits, we find reasonable IDT's request for a waiver of the requirement it post a surety bond to cover refund of deposits. We also find reasonable IDT's request for a waiver of the requirement that it

file maps delineating the territory in which it intends to provide service. We will grant both requests.

As part of its petition, IDT states that it will charge access rates no higher than Verizon New Hampshire'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.

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. Pursuant to Puc 1306.01(b), 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 constantly increasing demand. Accordingly, we will require that

IDT request and use numbers responsibly and conservatively, and invite IDT to explore alternative mechanisms to use existing numbers as efficiently as possible. In approving this application, we require IDT 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 NLSI, that subject to the effective date below, IDT's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Verizon New Hampshire, is GRANTED, subject to all relevant Commission rules and orders; and it is

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

FURTHER ORDERED, that IDT's request for waiver of the surety bond requirement per Puc 1304.02(b) is hereby GRANTED subject to IDT's agreement not to collect any deposit, prepayment or advance payment prior to the provision of service; and it is

FURTHER ORDERED, that no less than ten days prior to commencing service, the Petitioner 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); and it is

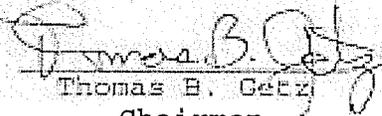
FURTHER ORDERED, that IDT shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than February 17, 2003 and to be documented by affidavit filed with this office on or before March 3, 2003; and it is

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 February 24, 2003; and it is

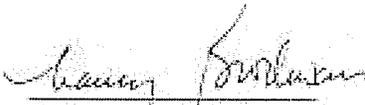
FURTHER ORDERED, that this Order Nisi shall be effective March 7, 2003, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that, should the petitioner 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.

By order of the Public Utilities Commission of New
Hampshire this seventh day of February, 2003.


Thomas B. Getzi
Chairman


Susan S. Geiger
Commissioner


Nancy Brockway
Commissioner

Attested by:


Debra A. Howland
Executive Director and Secretary

STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION
8 Old Suncook Road
Concord, N.H. 03301-7319

CHAIRMAN
Douglas L. Patch

COMMISSIONERS
Susan S. Geiger
Nancy Brockway

EXECUTIVE DIRECTOR
AND SECRETARY
Thomas B. Getz

TDD Access: Relay NH
1-800-735-2964

Tel. (508) 271-2431

FAX No. 271-3878

Website:
www.puc.state.nh.us

AUTHORIZATION TO PROVIDE INTRALATA TOLL SERVICE

In accordance with Order No. 22,473,

IDT America, Corp.

is authorized to provide competitive intraLATA toll service in the State of New Hampshire.

Thomas B. Getz
Executive Director

Date: May 3, 2000

Authorization No. IXC 05-001-00

This authorization is non-transferable. In the event of merger or acquisition, the successor corporation must request and receive authorization pursuant to Order No. 22,473, before commencing service. An application for authorization may be obtained electronically from the PUC Internet Home Page at <http://www.state.nh.us/puc/puc.html> or by written request.

DT 00-023

IDT CORPORATION AND IDT AMERICA, CORPORATION

Corporate Restructuring

Order Approving Pro Forma Assignment of Certificate of Authority

ORDER NO. 23,473

May 9, 2000

On July 20, 1998, IDT Corporation (IDT) and IDT America Corporation, (IDT America) (the Parties) jointly filed a "Letter of Notification" (LON) informing the New Hampshire Public Utilities Commission (Commission) of the *pro forma* assignment of IDT's Certificate of Authority to its wholly-owned subsidiary, IDT America. In response to a Staff data request, the Parties on January 21, 2000 filed additional information necessary to complete the *pro forma* assignment.

IDT, a Delaware corporation, is a registered competitive *intraLATA* toll provider in New Hampshire pursuant to Authorization No. IXC20897 issued by the Commission.

IDT America, a New Jersey corporation, is a wholly-owned subsidiary of IDT. IDT America received its authority to provide *IntraLATA* Toll services in New Hampshire on May 3, 2000 by Authorization No. 0500100.

The proposed incorporation is *pro forma* in essence as IDT and IDT America are affiliated through their parent-subsidiary relationship. IDT asserts that operational efficiency of IDT would be improved by a corporate reorganization with the

assignment of its Certificate of Authority to IDT America. IDT America avers that the transaction will be transparent to IDT consumers and will have no impact on the services, rates or terms and conditions the company offers. Nor will the company's ongoing operations be affected. IDT America has filed with the Commission a revised tariff that indicates IDT America's adoption of IDT's tariff.

We find that the assignment of IDT's license to IDT America is in the public good, a finding necessitated by RSA 374:30 to approve the transfer of a public utility's franchise, works, or system. This transaction is similar to, but slightly different from other acquisitions. As in *Re Maxxis Communications, Inc.*, DT 99-110, Order No., 23,323 (October 25, 1999), the system to be transferred consists of customer base and billing systems, *inter alia*. Unlike the transaction in *Re Maxxis*, however, the transfer is to a wholly-owned subsidiary of the parent rather than to another long distance carrier. Because the entity providing service will remain the same except for the name, there is no issue of slamming here. We note that the same reasoning may not apply to an affiliate. RSA 374:28-a prohibits slamming, *i.e.*, changes of a customer's service provider without the customer's knowledge or consent. As we stated in *Re Maxxis*, we approve the transfer of a customer base only to the extent that the acquisition of each customer's long distance service is

conditioned on notice to the customer of his/her opportunity to choose another long distance carrier, without additional charge, for a period of at least 14 days after the date of the notice.

In the instant situation, while we direct IDT America to provide notice to each customer of the acquisition of IDT by its wholly-owned subsidiary, we will not require that IDT America provide all customers with an opportunity to change carriers without additional charge. We consider that the administrative benefits of obtaining a certificate of authority to do business within New Hampshire, as now permitted by RSA 374:25, IV, were not intended to come with additional costs.

Based upon the foregoing, it is hereby

ORDERED, that the pro *forma* assignment of IDT Corporation Certificate of Authority to provide telecommunication services in New Hampshire to IDT America is hereby APPROVED with the condition that customers' notification proceed as directed above.

By order of the Public Utilities Commission of New
Hampshire this ninth day of May, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary

ATTACHMENT C

**Joint Petition of IDT America, Corp. and MetroCast Cablevision of New
Hampshire, LLC for Expedited Relief in the Granting of Numbering Resources,
Settlement Agreement, DT 06-169 (January 19,2007)**

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DT 06-169
Jordan Barstow,
Bailey O'Harris

DT 06-169
Joint Petition of IDT America, Corp.
and MetroCast Cablevision of New Hampshire, LLC
for Expedited Relief
in the Granting of Numbering Resources

SETTLEMENT AGREEMENT

On this 19th day of January, 2007, IDT America, Corp. ("IDT") and MetroCast Cablevision of New Hampshire, LLC ("MetroCast"), joint petitioners in the above captioned docket, and the Staff ("Staff") of the New Hampshire Public Utilities Commission ("Commission"), stipulate and agree as follows:

1. This Settlement Agreement ("the Agreement") concerns the conditions under which IDT will be able to obtain numbering resources for the purpose of being able to provide service to MetroCast end-user customers located in areas in New Hampshire. As IDT and MetroCast indicated in the Joint Petition submitted on December 14, 2006, IDT plans to provide MetroCast with connectivity to the Public Switched Telephone Network ("PSTN"), local number port-in and port-out, enhanced 911 interconnection, operator/directory assistance, directory listings, and the necessary numbering resources to serve MetroCast end-user customers located in MetroCast's service area in New Hampshire. IDT will provide an end-to-end solution by integrating the IP platform to deliver a fully automated digital phone and high-speed data provisioning solution including PSTN service activation and interconnection. MetroCast's two-way cable plant will be used for an IP-based cable telephony solution.

2. For purposes of this Agreement, MetroCast agrees that it will register for competitive local exchange carrier ("CLEC") status in New Hampshire pursuant to Puc 431.01, will file a telephony rate schedule with the Commission, and will comply with the numbering resource commitments contained herein. In the event the Commission, the Federal Communications Commission ("FCC") or a court of competent jurisdiction determines the service described herein is not subject to state commission jurisdiction, IDT and MetroCast will continue to honor the terms of this Agreement with respect to any numbers obtained pursuant to the Agreement. In the event of such a commission, FCC or court determination, IDT and MetroCast would obtain any future numbering resources in accordance with such determination. Staff agrees that it will expeditiously review and issue a CLEC authorization number to MetroCast provided that it meets all Commission requirements contained in Puc 431.01 and Puc 431.02.

3. IDT agrees that any telephone numbers assigned to it for the exchanges in which MetroCast has customers will be used only for the IP-based cable telephony end-users of MetroCast, and will only be geographically assigned to New Hampshire end-users, based on the

ADP
12-19-06

rate center of the end-user's physical location. ~~IDT further agrees that it will not assign numbers obtained under this Agreement to any NewPhone customers.~~

4. In the event IDT seeks numbering resources in New Hampshire to implement a partnership other than with MetroCast, it will do so only upon Commission approval. In the event MetroCast seeks to request numbering resources independently of IDT, it will do so only upon Commission or Staff approval.

5. IDT also agrees to follow all published requirements for the conservation of numbers, including the reclamation of unused numbers, consistent with the requirements imposed on IDT when its CLEC authority was granted in Order No. 24,124. For purposes of this Agreement and only for numbers obtained under this Agreement, IDT will file with Staff copies of all number utilization forms submitted to Neustar, or its successor, in a timely manner as determined by Staff. Upon written request, IDT will provide Staff, subject to federal and state privacy requirements, end-user names and addresses for all telephone numbers assigned pursuant to this Agreement ("Protected Information"), subject to the following: This Protected Information shall be provided to designated Staff under seal in an envelope marked "Confidential" and shall be treated by Staff and the Commission as confidential and proprietary information, and reviewed only for the sole purpose of demonstrating compliance with this Agreement. Further, Staff and the Commission shall take all necessary steps under applicable law to ensure that the Protected Information is not disclosed to persons or entities other than designated Staff and the Commission, IDT and MetroCast. IDT also recognizes that its use of numbering resources is subject to audit by the Staff or the number pooling administrator.

6. Staff agrees that it will expeditiously approve IDT's request for numbering resources for the purpose outlined above. IDT agrees that it will follow all published requirements for the obtaining of numbering resources and abide by the commitments contained in this Agreement.

7. IDT and MetroCast agree that any violation of the commitments contained in this Agreement would constitute "good cause" under Puc 431.19 which would subject the party committing the violation to the provisions and consequences contained therein.

8. IDT, MetroCast and Staff agree to jointly recommend that the Commission expeditiously approve this Agreement.

9. This Agreement is expressly conditioned upon the Commission's acceptance of all its provisions without change or condition. If the Commission does not accept this Agreement in its entirety, without change or condition, and IDT or MetroCast and Staff, or any of them, are unable to agree with all of said changes or conditions within ten (10) days of the Commission's decision, this Agreement shall be deemed to be withdrawn and shall not constitute any part of the record in this proceeding and shall not be used for any other purpose. The making of this Agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings is true or valid. The Commission's acceptance of this Agreement does not constitute continuing approval of, or precedent regarding, any particular principle or issue in this proceeding, but such acceptance does constitute a determination that (as the parties believe) the provisions set forth herein in their totality are just and reasonable.

12/1/03
9/2/03

In witness whereof, the Staff, IDT and MetroCast, signing below have caused this Agreement to be executed as of the date referenced above.

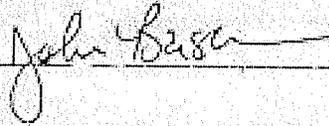
IDT America, Corp.

Dated: January 19, 2007

By: 

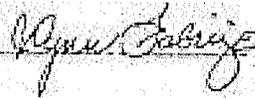
MetroCast Cablevision of New Hampshire, LLC

Dated: January 19, 2007

By: 

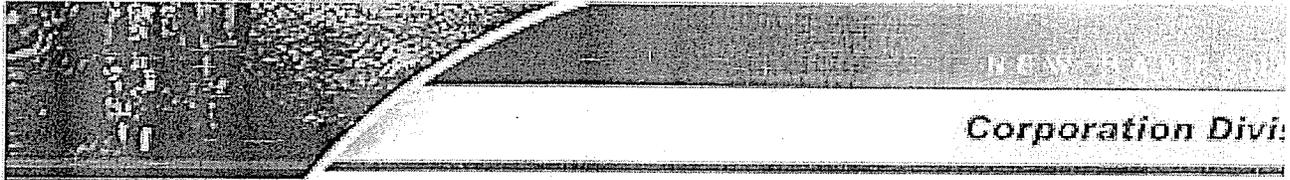
Staff of the New Hampshire Public Utilities Commission

Dated: January 19, 2007

By: 

ATTACHMENT D

Copy of New Hampshire Secretary of State Certificate of Authority



- Search
- By Business Name
- By Business ID
- By Registered Agent
- Annual Report
- File Online

Date: 2/9/2009

Filed Documents

(Annual Report History, View Images, etc.)

For a blank Annual Registration Report, click here.

Business Name History

Name	Name Type
IDT AMERICA, CORP.	Legal

Corporation - Foreign - Information

Business ID:	228126
Status:	Good Standing
Entity Creation Date:	12/8/1999
State of Business.:	NJ
Principal Office Address:	520 BROAD ST NEWARK NJ 07102
Principal Mailing Address:	IDT/JOYCE MASON 60 E. 42ND STREET, SUITE 1812 NEW YORK NY 10165
Last Annual Report Filed Date:	1/23/2008
Last Annual Report Filed:	2008

Registered Agent

Agent Name:	Lawyers Incorporating Service
Office Address:	14 CENTRE STREET CONCORD NH 03301

Mailing Address:

EI File Annual Report Online.

ATTACHMENT E

Proof of Surety Bond



P.O.Box 3967
 Peoria, IL 61612-3967
 Phone: 309-692-1000 Fax: 309-692-8637

CONTINUATION CERTIFICATE

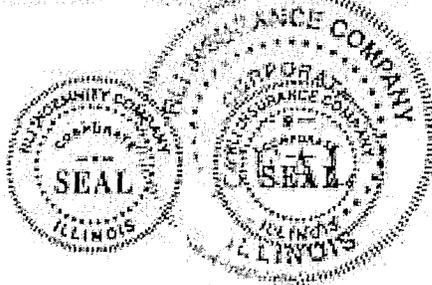
RLI Insurance Company/RLI Indemnity Company hereby continues in force Bond No. CMS0223846 briefly described as Telecommunication bound unto the State Of New Hampshire Public Utilities Commission on behalf of IDT America Corp.

Location Name & Address:	Bill To Name & Address: (If different)
<u>IDT America Corp.</u>	
<u>520 Broad Street</u>	
<u>Newark, NJ 07102</u>	

in the sum of \$ 10,000.00 Dollars, for the term beginning July 19, 2008 and ending July 19, 2009 subject to all the covenants and conditions of the original bond referred to above.

This Continuation Certificate is executed upon the express condition that the Undersigned company's liability under said bond and under this and all Continuation Certificates issued in connection therewith shall not be cumulative and shall not in any event exceed the amount of said bond as hereinbefore set forth.

Dated this 21st day of April, 2008.



RLI Insurance Company/RLI Indemnity Company

By _____

Ray C. Die, Vice President

THIS "Continuation Certificate" MUST BE FILED WITH THE ABOVE OBLIGEE.

ATTACHMENT

Contact Information



NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION
 21 S. FRUIT ST., STE 10 CONCORD, NH 03301-2429
 603-271-2431
 www.puc.nh.gov

CLEC
 NHPUC Form CTP-T
 Contact Information
 Page 1 of 4
 Puc 469.02
 Rev. 03/30/06

CONTACT INFORMATION

A telecommunications carrier must complete this form: 1) When requesting authorization to provide telecommunications service in New Hampshire by the Public Utilities Commission, 2) Annually, on or before March 31 of each year, or 3) When there have been changes to the information previously reported.

Check here if you would prefer electronic notices rather than notice by US Mail Date 2/19/09

1. General Information

Federal Identification Number 22-3312697

CTP Authorization Number 24,124

Legal Name IDT America, Corp.

Trade Name d/b/a
in New Hampshire _____

Complete Mailing Address 520 Broad Street
Newark, NJ 07102

Phone Number 973-438-1000

Fax Number 973-438-1455

E-mail Address Carl.Billek@,corp.idt.net

Website http://www.idt.net

2. Person Responsible for Preparing the CTP Annual Report

Name Carl Billek

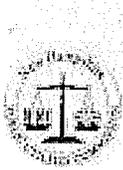
Title Senior Regulatory Counsel

Complete Mailing Address 520 Broad Street
Newark, NJ 07102

Phone Number 973-438-4854

Fax Number 973-438-1455

E-Mail Address Carl.Billek@,corp.idt.net



3. Person Responsible for Paying Assessment Bills

Name Carl Billek
Title Senior Regulatory Counsel
Complete Mailing Address 520 Broad Street
Newark, NJ 07102
Phone Number 973-438-4854
Fax Number 973-438-1455
E-Mail Address Carl.Billek@corp.idt.net

4. Regulatory Contact

Name Carl Billek
Title Senior Regulatory Counsel
Complete Mailing Address 520 Broad Street
Newark, NJ 07102
Phone Number 973-438-4854
Fax Number 973-438-1455
E-Mail Address Carl.Billek@corp.idt.net

5. Person that Commission's Consumer Affairs Department Should Call Regarding Customer Complaints

Name Anthony Acevedo
Title _____
Complete Mailing Address 520 Broad Street
Newark, NJ 07102
Phone Number 973-438-4827
Fax Number 973-438-1455
E-Mail Address Anthony.Acevedo@corp.idt.net



6. Director of Customer Service

Name Anthony Acevedo
Title _____
Complete Mailing Address 520 Broad Street
Newark, NJ 07102
Phone Number 973-438-4827
Fax Number 973-438-1455
E-Mail Address Anthony.Acevedo@corp.idt.net

7. Company Officer Responsible for Customer Service

Name Carl Billek
Title Senior Regulatory Counsel
Complete Mailing Address 520 Broad Street
Newark, NJ 07102
Phone Number 973-438-4854
Fax Number 973-438-1455
E-Mail Address Carl.Billek@corp.idt.net

8. End User Customer Service

Toll free 800 Number 1-800-889-9126
Fax Number - -
E-Mail Address _____
Hours of Operation 24/7

9. End User Repair Service

Toll free 800 Number 1-800-889-9126
Fax Number - -
E-Mail Address _____
Hours of Operation 24/7



10. Names and Titles of Principal Officers

Name	Title
Howard Jonas	Chairman
James Courter	President
Joyce Mason	Secretary
Marcelo Fisher	CFO
Doug Mauro	Vice President

11. Contact Escalation List

Please attach contact escalation list, including, name, phone number and e-mail address for first level contact, director and company officer responsible for network, interconnection and provisioning.

12. Signature

I certify that the information on this form is true and correct to the best of my knowledge and belief subject to the penalty for making unsworn false statements under RSA 641:3.

Authorized Representative
 Signature  Title Senior Regulatory Counsel

Printed Name Carl Billek Date 2/19/09

If you have any questions, please call the New Hampshire Public Utilities Commission at 603-271-2431.
 Please mail any documents to the above address.

Contact Escalation Addendum to NHPUC Form CLEC-1

The following individuals should be contacted regarding any questions pertaining to the network, interconnection and/or provisioning:

First Level Contact

Carl Billek
(973) 438-4854
Carl.Billek@corp.idt.net

Director

Thomas Jordan
(973) 438-3010
TJordan@net2phone.com

Officer

James Courter
(973) 438-4300
Jim.Courter@corp.idt.net

THE STATE OF NEW HAMPSHIRE

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Graham J. Morrison
Clifton C. Below

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



PUBLIC UTILITIES COMMISSION
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

AUTHORIZATION TO PROVIDE LOCAL EXCHANGE SERVICE

IDT America, Corp.

is authorized to provide local exchange service in the State of New Hampshire in FairPoint Communications and Union Telephone exchanges.

A handwritten signature in cursive script, appearing to read "Debra A. Howland", written over a horizontal line.

Debra A. Howland
Executive Director

Date: March 6, 2009

Authorization No. DT 02-229 and Order No. 24,124

This authorization is non-transferable
Pursuant to Puc 451.01(g)