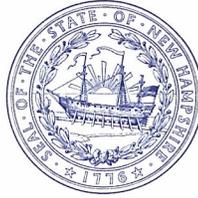


THE STATE OF NEW HAMPSHIRE

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

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

August 30, 2010

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit St., Suite 10
Concord, New Hampshire 03301

Re: DT 10-213, CRC Communications of Maine, Inc.
Petition to Amend CLEC and IXC Certifications

Dear Ms. Howland:

On August 9, 2010, CRC Communications of Maine, Inc. (CRC) filed a request to amend its CLEC and IXC certifications to include the territory of Northland Telephone of Maine (Northland), a rural ILEC operating in northeastern New Hampshire. This filing is the first to implicate the process and procedures used by the Commission in authorizing CLECs to operate in the territories of so-called exempt ILECs, such as Northland, following the Supreme Court's opinion in *Appeal of Union Telephone*, 161 N.H. ___ (opinion issued May 20, 2010).¹ Pursuant to an order of remand from the Supreme Court, the Commission's processes, and the degree to which those processes are preempted by federal law, are under review and are currently the subjects of Docket No. DT 10-183.

On July 6, 2010, in Docket Nos. DT 08-130, DT 09-065, and DT 09-198, Staff filed a report of technical session stating, among other things, that pending the resolution of the issue of preemption, for any CLEC applications covering territories other than that of FairPoint Communications, a hearing would be scheduled, unless one was determined not to be needed in accordance with RSA 374:26. That report, however, did not define the scope of the hearing or issues that would be determined at such a hearing, nor did it address how the docket would progress in the absence of a hearing. The purpose of this letter is to outline the process proposed by Staff for the processing of Docket DT 10-213 and other such dockets pending the outcome of Docket No. DT 10-183.

¹ Coincident with CRC's filing, Time Warner Cable Information Services (New Hampshire), LLC made a nearly identical request which was docketed as DT 10-207. Following consultations with Staff, Time Warner withdrew its petition on August 24, 2010, without prejudice.

In accordance with Staff's understanding of the requirements of the Supreme Court in *Appeal of Union Telephone*, Staff proposes that for such dockets, the petitioning CLEC be required to supply information and documentation sufficient to make a showing of public good as defined in RSA 374:22-g. In other words, the petitioning CLEC must provide some evidence in the first instance, in a general or case-specific format as appropriate, relating to: "the interests of competition with other factors including, but not limited to, fairness; economic efficiency; universal service; 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, taking into account the proportionate benefit or savings, if any, derived by the incumbent as a result of incurring such expenses." RSA 374:22-g, II.

Should the potentially affected ILEC not object to the information provided, the Commission may presume such information to be sufficient to meet the requirements of the statute. If, however, the potentially affected ILEC does object, the Commission will evaluate, either at a hearing or through a review of the filings, the information to determine if the requisite statutory factors have been met. During this review, the Commission should give deference to the preference of the federal regime to encourage competition in telecommunications services, and the explicit finding of the New Hampshire legislature that all telephone franchise areas in the state are to be nonexclusive, to the extent consistent with federal law. The information required by the statute must be supplied by the petitioning CLEC, regardless of whether the interested parties agree, pursuant to RSA 374:26, that a hearing is not necessary.

Staff requests that the Commission approve its proposal for the processing of Docket No. DT 10-213 and similar CLEC applications as outlined above, pending the resolution of DT 10-183. Staff believes that this process will, insofar as is possible, comport with the requirements of the Supreme Court's decision while at the same time allow for a relatively streamlined process as promoted by the federal regime.

Please contact me if you have any questions or concerns about the above contained proposal.

Sincerely,



Matthew J. Fossum
Staff Attorney