


STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: November 9, 2016

AT (OFFICE): NHPUC

FROM:  Michael Ladam, Director, Regulatory Innovation and Strategy

SUBJECT: DT 16-846, Airus, Inc. Request for Waiver of Puc 413.03(a)(1) and (2)

TO: Commissioners
Debra Howland, Executive Director

CC: David Wiesner, Staff Attorney

Executive Summary

Airus, Inc. (Airus) seeks a block of telephone numbers. Our rules currently require any such request, normally processed by Commission staff, to include evidence that the company will use specific facilities in the exchange. That requirement appears to have been superseded by a 2015 Federal Communications Commission (FCC) order. Airus seeks a waiver of these two rules for both this request and future numbering requests that it may make. Staff recommends granting the waiver for both the current and prospective requests.

Background

On November 8, 2016, Airus filed a Form T-7: Exchange Eligibility Report accompanied by a letter asking the Commission to waive rules Puc 413.03(a)(1) and Puc 413.03(a)(3). Form T-7 and these rules concern the process by which a telephone service provider seeks Commission support for a request to the North American Numbering Plan Administrator (NANPA) for a block of telephone numbers in a particular New Hampshire exchange. The first of these rules requires a company to provide evidence that it will be using network facilities located in that exchange. The second of these rules requires a company to provide evidence that it owns those facilities, or uses the facilities of a specific partner.

As Airus notes in its letter, these rules were written before the FCC Report and Order 15-70 of June, 2015. That Order concludes that providers of voice telephony services that run "on top of" separate Internet connections are entitled to obtain blocks of telephone numbers. That was not previously the case: prior to Order 15-70, such companies obtained blocks of numbers indirectly from "numbering partners." Our rules requiring evidence of specific local physical facilities are consistent with that earlier interpretation. Companies that offer telephone service independent of the physical connection, however, will not be able to provide such evidence: a particular customer may use any of several different Internet Service Providers.

In Staff's assessment, FCC Order 15-70 eliminates the basis for Puc 413.03(a)(1) and (3). When the Puc 400 rules are next revised, Staff expects to recommend eliminating these rules. In the interim, the most efficient administrative process appears to be issuing a waiver to such companies on request.

Companies typically obtain blocks of numbers one at a time. A company may seek one thousand numbers in the Manchester exchange one month, then another one thousand numbers in the Concord exchange six months thereafter. Airus asks that the Commission grant a waiver for not only its current request, but also for any future requests that it makes. (Staff would review any such future requests as it does with requests from other providers.) Airus describes such a prospective waiver as a matter of efficiency. Staff concurs. Absent a prospective waiver, we would expect future waiver requests from the same company to be granted on a *pro forma* basis. Federal rules demand action on numbering requests within five calendar days. A prospective waiver of these two rules will help the Commission maintain that schedule.

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

Executive.Director@puc.nh.gov

amanda.noonan@puc.nh.gov

david.wiesner@puc.nh.gov

jmccluskey@airustel.com

michael.ladam@puc.nh.gov

ocalitigation@oca.nh.gov

Docket #: 16-846-1 Printed: November 09, 2016

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**

DEBRA A HOWLAND
EXECUTIVE DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
- c) Serve a written copy on each person on the service list not able to receive electronic mail.**