

THE STATE OF NEW HAMPSHIRE



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April 2, 2010

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: Global NAPS Petition for Declaratory Ruling and Alternative Petition for
Preemption of the Pennsylvania, New Hampshire, and Maryland State
Commissions
WC Docket No. 10-60

Dear Secretary Dortch:

The attached Comments are submitted for filing on behalf of the New Hampshire Public Utilities Commission in the above-referenced docket. We are filing and serving the applicant electronically.

Thank you in advance for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Lynn Fabrizio".

Lynn Fabrizio
Staff Attorney

Enclosures

cc: Douglas Slotten, FCC (via email – douglas.slotten@fcc.gov)
Best Copy and Printing, Inc. (via email – fcc@bcpiweb.com)

not paid any compensation for termination of its traffic on TDS facilities since February 2003 and continuing to the present time.

The NH Commission opened Docket No. DT 08-028 to examine the TDS petition and issued a final order, Order No. 25,043 (Order), on November 10, 2009. In its Order the NH Commission determined that Global has been availing itself since February 2003 of the use of TDS's local exchange networks to terminate traffic without paying any compensation to TDS and that at least some of the traffic was intrastate. The NH Commission determined that Global had failed to support its argument that its traffic should be exempt from any charges and, further, that Global is not entitled to avail itself of other carrier networks without compensation, whatever the nature of the traffic exchanged may be. The NH Commission thus determined that some compensation was due for Global's use of TDS facilities and termination services, and provided the parties an opportunity to reach agreement on the amount of such compensation. Absent agreement on compensation, the NH Commission authorized TDS to block future termination services to Global in accordance with applicable administrative rules.

On December 2, 2009, Global filed motions to stay and for reconsideration or rehearing of the Order. Global indicated that it had requested negotiation of an interconnection agreement with TDS concerning termination of traffic on TDS networks. On December 15, 2009 the NH Commission issued a Secretarial Letter suspending the Order while it considered pending motions and objections.

On April 2, 2010 the Commission issued Order No. 25,088 (Rehearing Order) denying rehearing and giving Global and TDS an additional thirty days to agree on compensation and make payment to TDS for services rendered. Absent such agreement

and payment the Rehearing Order reaffirms TDS's authority to disconnect service to Global.

II. Comments

Global misconstrues the import of the New Hampshire Order. The NH Commission has made no finding as to how much of the Global traffic in question is intrastate or interstate. Similarly, the Order did not determine whether the traffic is nomadic or fixed VoIP. Rather, the NH Commission found that Global traffic has been terminated on TDS networks since February 2003 and that at least some of the traffic is intrastate. The parties to the proceeding agreed as a threshold matter that Global "transfers all traffic at issue...to FairPoint in traditional time division multiplexing (TDM) format and FairPoint terminates that traffic the same way it terminates a traditional voice call through meet point billing with the independent."² Because the traffic at issue travels along the TDS networks in exactly the same manner and format as traditional toll calls, and Global did not provide evidence to support its arguments to the contrary, the NH Commission found that Global is not entitled to continued termination services without compensation to TDS. Under the Order and Rehearing Order, the NH Commission held that unless Global negotiates appropriate payment arrangements for past services rendered, as well as future interconnection arrangements, TDS may discontinue service to Global. The NH Commission left it to the parties to negotiate terms and conditions for future traffic exchange services. Accordingly, we request that the Global petitions be denied.

Attached are copies of the New Hampshire Order and Rehearing Order, and the Staff Technical Report of May 14, 2008 Technical Session.

² Staff Report of May 14, 2008 Technical Session at 1 (May 15, 2008).

Respectfully submitted
On Behalf of the
New Hampshire
Public Utilities Commission

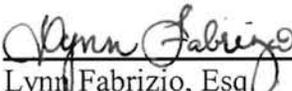


Lynn Fabrizio, Esq.
Staff Attorney

April 2, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served by electronic service the foregoing document upon each person designated in the Commission's public notice in this proceeding. Dated this 2nd day of April 2010.



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