

DT 03-076

DIXVILLE TELEPHONE COMPANY

Implementation of IntraLATA Presubscription

Order Approving IntraLATA Presubscription Plan

O R D E R N O. 24,235

November 7, 2003

I. BACKGROUND

By Order No. 22,281 in Docket No. DT 96-090, *Order Approving IntraLATA Presubscription Method of Implementation*, 81 NH PUC 624 (1996), (ILP Order) the New Hampshire Public Utilities Commission (Commission) required incumbent local exchange carriers (ILECs) to provide dialing parity for New Hampshire in-state toll customers by providing intraLATA presubscription (ILP). Without ILP capability, customers must dial a seven digit code in order to access an intraLATA toll carrier other than the ILEC's contracted carrier. The *ILP Order* approved a method of implementing ILP. Order 22,563, *Order Approving IntraLATA Presubscription Method of Cost Recovery*, 82 NH PUC 357 (1997) approved a cost recovery methodology.

The *ILP Order* specifically waived the ILP requirements for Dixville Telephone Company (Dixville or the petitioner). *Id.* at p. 636. The Commission granted the waiver after balancing the competitive opportunity costs against the expense of implementation. *Id.* Dixville, at the time, served only 568 access lines, 400 of which were provided to the resort hotel there.

On March 26, 2003, Dixville notified the Commission that it had received a bona fide request from Broadwing Communications to provide interLATA presubscription. Dixville also petitioned the Commission for approval of its *IntraLATA Toll Dialing Parity Plan* (Plan) which will be utilized for implementing both inter- and intraLATA presubscription. According to Dixville, the Plan conforms to both Federal Communications Commission (FCC) and Commission requirements. The petition also contains a cost recovery plan for the intraLATA portion of the costs of implementation of presubscription, for which Dixville also seeks approval.

The Commission Staff (Staff) reviewed the petition and, at the request of the petitioner, provided Dixville with several informal recommendations. On July 3, 2003, the petitioner submitted a revised plan which was largely responsive to Staff's recommendations. On July 30, 2003, Staff formally requested data specifically addressing the costs of implementing intraLATA ILP. Dixville responded on August 12, 2003. Further informal discussions between Staff and the petitioner resulted in the submission of a revised cost recovery plan by the petitioner on September 16, 2003.

The Plan requests that Dixville be allowed to recover \$0.037 per minute from originating intraLATA access for a period of 3 years.

II. STAFF RECOMMENDATION

Staff provided recommendations on the filing to the Commission in a memorandum dated November 4, 2003. According to Staff, and as set forth below, the Plan appears to contain all of the elements qualifying it for approval under the Commission's analysis in the *ILP Order*.

1) The Plan will provide dialing parity by allowing Dixville customers access to all interexchange carriers for inter-, intra and international calling without dialing an additional seven digit access code.

2) The Plan utilizes the 2-PIC presubscription method, approved in the *ILP Order*. (PIC stands for Primary Inter/IntraLATA Carrier.) The 2-PIC method allows customers to presubscribe to different carriers for inter- and intraLATA toll service if they choose. Any carrier presubscribed by a customer will be accessible by dialing seven digits for an intraLATA call and 1 plus ten digits for an interLATA call.

3) The Plan does not assign customers to any carrier in preference to any other or otherwise discriminate against carriers. Dixville's plan contains two options for a customer to make a PIC choice: through ballots or by direct contact with the carrier of his or her choice which has a signed Letter of Understanding with Dixville. All Dixville subscribers will be mailed ballots on which they will mark their choice of inter- and intraLATA carriers. Properly signed and returned ballots will

result in the customers being assigned to the carriers they have selected. A second ballot will be mailed to those subscribers who fail to return a properly executed first ballot. Customers not returning either the first or the second ballot will be assigned to carriers randomly and in a percentage matching the selection rates of those customers returning ballots in accordance with Federal requirements. Commission Order No. 22,341, *Order Setting Statewide Implementation by June 2, 1997 and Clarifying and Amending Terms of Order No. 22,281*, 81 NHPUC 728 (1996) requires that a customer failing to affirmatively select a carrier will default to "dial around" or 10-10-XXX calling. However, as this procedure is in conflict with the federal plan which also assures no discrimination among carriers, and because implementation of both intra- and interLATA presubscription are being implemented concurrently, Staff recommends that the Commission allow the ballot mechanism in addition to the direct contact with the carrier mechanism. Staff also recommends that the federal default mechanism be utilized instead of requiring default to dial around calling.

In addition, the order in which carriers are listed on the ballots will be rotated from ballot to ballot. This is a valid mechanism to ensure that no carrier is given the advantage of appearing at the top of the ballot more frequently than other carriers.

4) The Plan provides nondiscriminatory access to the services of these carriers.

5) The education component of the Plan meets Commission requirements as outlined in the *ILP Order*. The customer education material has been submitted to the Commission well in advance of the 30 day requirement. The material appropriately explains the benefits of ILP and its relationship to and effect on, competition. It will also contain the list of participating carriers and their telephone numbers, the date upon which ILP will be implemented, and the availability and process of obtaining PIC freezes.

These provisions, with incorporation of balloting and modification of the default assignment method, meet or exceed those required for intraLATA presubscription. Staff therefore recommends Commission approval of the Plan.

Staff review of the cost recovery plan reveals it to be relatively higher than those submitted by other carriers in DE 96-090. Staff, however, noted that the last ILP plans were submitted seven years ago and the effect of inflation accounts for some of the higher nominal dollar costs. Staff recognizes that cost was a principal reason why Dixville was initially exempted. Due to the relatively small size of Dixville, costs would appear to be very large when imposed on the small customer base of the company. The customer base remains approximately the same size today as in 1996, and therefore the costs do appear to

be relatively large.

Dixville requests recovery of costs at a rate of \$0.037 per minute of originating access for a period of three years. According to Dixville, this recovery rate is insufficient to cover the company's anticipated expenses. However, in the interests of rapid transition the company proposes this cap. The company proposes to refund any excess recovery to customers at the end of the three-year recovery period, but states that it will not attempt to recover any under-recovery of costs. Staff is satisfied that Dixville has made efforts to limit costs in order to bring the benefits of presubscription to its customers rapidly. Staff is also satisfied that the company will not be jeopardized by absorbing some of the costs of implementation, as proposed. Staff therefore recommends approval of Dixville's cost recovery mechanism.

III. COMMISSION ANALYSIS

In the *ILP Order*, we recognized that presubscription for intraLATA toll calls is an important step toward full competition and serves the public interest of New Hampshire telecommunications customers. That has proven to be the case in the toll markets where hundreds of competitors vie for market share.

Our review of the Plan proposed by Dixville confirms Staff's opinion that the Plan, with the modifications noted by Staff, meets the requirements for intraLATA presubscription as

outlined by this Commission. We will therefore approve it as offered by Dixville.

We accept the recovery of costs as proposed by Dixville at \$0.037 per originating minute of use to be collected through access charges for a period of three years. While the charge is significant when compared with access charges of other carriers, we find that a significant competitive benefit will result from the Plan. That being the case, we find the charge to be just and reasonable for this particular company.

Based upon the foregoing, it is hereby

ORDERED, that the *IntraLATA Toll Dialing Parity Plan* submitted by Dixville is APPROVED; and it is

FURTHER ORDERED, that the cost recovery plan submitted by Dixville is APPROVED; and it is

FURTHER ORDERED, that Dixville shall submit a cost study 14 months, 26 months and 38 months after implementation of presubscription indicating the actual implementation cost incurred compared to the forecasted cost of implementation; and it is

FURTHER ORDERED, that the implementation program shall be subject to a "true up" at the end of the three year recovery period in the event of over-recovery of actual implementation costs; and it is

FURTHER ORDERED, Dixville shall be subject to an accounting audit to verify actual implementation costs; and it is

FURTHER ORDERED, that Dixville shall file a report of ILP costs and revenues on a quarterly basis throughout the recovery period.

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

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Graham J. Morrison
Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary