

State of New Hampshire
Public Utilities Commission

DT 07-027

Kearsarge Telephone Company, Inc.
Wilton Telephone Company, Inc.
Hollis Telephone Company, Inc.
Merrimack County Telephone Company

Petitions For An Alternative
Form of Regulation

**Brief Response of Intervenor Daniel Bailey
To Information in Reply Briefs
Which Is Not In The Record**

Submitted by
New Hampshire Legal Assistance
On Behalf of Daniel Bailey

February 14, 2008

I. Introduction

The Reply Brief of Petitioners (page 9), the Reply Brief of segTel (pages 2, 3), and the Post-Hearing Reply Brief by Staff of the Commission (page 10) all refer to a CLEC Form 10 Application filed with the Commission by Comcast dated December 11, 2007 For Registration as a Competitive Local Exchange Carrier (CLEC) in certain towns served by the TDS Petitioners.

The above Comcast Application is not part of the record in these proceedings. The record in these proceedings was closed on December 5, 2007 except for the filing of post-hearing briefs (Tr. Day 2, p. 170, ll. 16-18). Intervenor Daniel Bailey was not afforded the opportunity to comment on the relevance and significance, if any, of the Comcast Form 10 CLEC Application. Intervenor Bailey files this Brief Response regarding the Comcast Application pursuant to Commission Rule Puc 203.27(c).

II. The Comcast Form 10 CLEC Application Does Not Demonstrate that Competitive Wireline Service is Available to the Majority of Retail Customers in Each of the Exchanges Served by Petitioners.

The Comcast Application for Registration as a CLEC should be given little or no weight by the Commission for the following reasons:

1. Comcast is not required to provide service to any customer for up to 2 years.

Commission Rule Puc 431.12 (a) allows a CLEC up to two years to provide service to any customer following the issuance by the Commission of a CLEC authorization number.

2. The Comcast Application does not cover all of the 16 TDS exchanges.

The Comcast Application, on its face, does not appear to cover all of the 16 exchanges served by Petitioners. For example, the Application does not list the following TDS exchanges: Bradford, Hollis, Melvin Village, Meriden, Sutton, and Warner.

3. Lifeline protections for CLEC customers are less than for ILEC Lifeline customers.

- 1) Comcast is not an Eligible Telecommunications Carrier (ETC).
- 2) The Comcast Rate Schedule #1, attached to the Comcast Application, states that Lifeline credits will be passed through to the customer up to the charge for local service (Section 4.7, p. 18). However, the eligibility criteria for the Comcast voluntary discount program are narrower than is required under the federal Lifeline program. See 47 CFR § 54.409(b).
- 3) Pursuant to Puc 432.15 (b), basic local service to a CLEC Lifeline customer can be terminated for non-payment of toll service if the customer receives service under a bundled offering.

4. CLEC retail rates are not regulated by the Commission.

The just and reasonable rate requirement of RSA Chapter 378 does not apply to a CLEC like Comcast.

5. Comcast's service offerings are not priced comparably to TDS' basic local exchange service rates.

- 1) Comcast Rate Schedule #1, attached to the Comcast Application, does not include a "stand-alone" basic local exchange service offering. There is a "local only offer", however the offering is "grandfathered" to existing customers as of May 1, 2007 (Section 4.3, p. 13).
- 2) All other residential exchange services listed in the Comcast Rate Schedule #1 are bundled packages of basic service plus enhanced services. The packages range in price from \$26 per month to \$50 per month (Section 4.1, p.

12).¹ In addition, there are also one time non-recurring charges (Section 1.1, p.1).

3) The record shows that the prices of Comcast's bundled packages are significantly more than Petitioners' stand-alone residential basic local exchange service rates. Thus, the service offerings listed in Comcast's Form 10 CLEC Application, on their face, do not appear to be competitive with TDS's basic local exchange service.

III. Conclusion

The Comcast Form 10 CLEC Application does not demonstrate that competitive wireline service is available to the majority of retail customers in each of the Petitioners' exchanges as required by RSA 374:3-b, III (a). Accordingly, the Comcast Form 10 CLEC Application should be given little or no weight by the Commission for the reasons set forth above.

Respectfully submitted,

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¹ Although not listed in Rate Schedule #1, a call to Comcast (1-800-704-6091) would reveal that Comcast Digital Voice is also a bundled service package consisting of local, long distance and enhanced services at a cost of \$45 per month.

Certification Of Service

I certify that on this date this Brief Response was filed with the Commission and was served electronically on Staff and all parties on the service list in this docket.

New Hampshire Legal Assistance



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February 14, 2008