

Before the New Hampshire Public Utilities Commission

DT 07-027

Kearsarge Telephone Company, Wilton Telephone Company,
Hollis Telephone Company and Merrimack County Telephone Company
Petition for an Alternate Form of Regulation

Phase 2

**OFFICE OF CONSUMER ADVOCATE'S MOTION *IN LIMINE*
TO STRIKE PORTIONS OF TDS' REBUTTAL TESTIMONY**

1. On September 9, 2009 TDS Telecom ("TDS" or "the Companies") filed the rebuttal testimony of Daniel L. Goulet.
2. Mr. Goulet is Director of RF Services for C Squared Systems, LLC, providing "RF engineering services to wireless carriers in support of their network design, expansion and ongoing system performance." Goulet Rebuttal Testimony p. 2, lines 6-9.
3. Mr. Goulet's rebuttal testimony refers to the results of a "propagation analysis" for the Sutton and Salisbury exchanges. *See* Goulet Rebuttal, p. 8, line 20, through p. 9, line 12. Mr. Goulet also attached new Exhibits B through E to his rebuttal, which "depict[s]" the results of this new analysis. On September 24, 2009, Goulet filed corrected Exhibits B through E. This is new evidence and argument which should not be permitted on rebuttal.
4. Mr. Goulet testifies that he typically performs propagation models before drive tests like those he performed for TDS. *See* Goulet Rebuttal, p. 4, line 21, through p. 5, line 5 (drive test done after, and to validate, predictive coverage analysis); and Goulet Rebuttal, p. 9, line 17, through p. 10, line 9 (propagation models are

make toll calls. *See* Goulet Rebuttal, p. 13, line 21, through p. 14, line 2 (emphasis added).

6. To date in this proceeding three Ph.D. economists, including Dr. Johnson, have testified about the meaning and application of the word “competitive” in the context of RSA 374:3-b, III (a). This issue has also been briefed at length by the parties.
7. Based upon a review of his education and experience, *see* Attachment I to Mr. Goulet’s rebuttal, Mr. Goulet is not qualified to express opinions about competitiveness, which is a complex economic subject. Mr. Goulet holds an Associates degree in “Science – Business Management.” His experience is in the design, deployment, optimization, maintenance or other services for wireless providers. Therefore, neither his education nor his experience is adequate to qualify him to testify as an expert on the issue of competition.
8. In addition, Mr. Goulet’s “preference” for using wireless communications for toll calls is immaterial and not relevant to the issues before the Commission, or the determination required by RSA 374:3-b. *See* Puc 203.23(d).
9. Therefore, the portions of Goulet’s rebuttal testimony on the issue of the competitiveness of wireless telephone service are not appropriate for inclusion in the record.

Wherefore, the OCA respectfully requests that the Commission provide the following relief:

- A. Strike these improper portions of Goulet’s rebuttal testimony;

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was forwarded this day to the parties by electronic mail.

September 28, 2009



Meredith A. Hatfield