

**BEFORE THE STATE OF
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**

**DIRECT TESTIMONY OF TIMOTHY W. ULRICH
ON BEHALF OF MERRIMACK COUNTY TELEPHONE COMPANY,
KEARSARGE TELEPHONE COMPANY, WILTON TELEPHONE COMPANY,
INC. AND HOLLIS TELEPHONE COMPANY, INC.**

1 Prior to assuming my position with TDS, I was employed by Kiesling
2 Consulting (October 1997 until March 1999) as a telecommunications consultant
3 representing numerous small telephone companies before regulatory agencies.
4 Before joining Kiesling Consulting, I was employed by the Public Service
5 Commission of Wisconsin as its Principal Policy and Economic Analyst in its
6 telecommunications division (July 1991 until October 1997). Prior to the PSCW,
7 I worked for the U.S. General Accounting Office as a Senior Policy Analyst
8 (January 1987 until June 1991), and the U.S. Air Force (October 1980 until
9 August 1985) as a telecommunications officer (obtaining the rank of Captain).

10 **Q.** **Have you previously filed testimony or appeared as an expert witness before**
11 **a regulatory or legislative body?**

12 A. Yes. I have filed testimony and/or testified on several occasions before U.S.
13 Congressional Committees on a variety of topics, and before numerous state
14 utility commissions and legislative committees on the regulation of
15 telecommunications providers similar to the issues being addressed within this
16 proceeding.

17 In New Hampshire, I have testified before the New Hampshire Public
18 Utility Commission (“Commission” or “PUC”) regarding alternative regulation
19 for Kearsarge Telephone Company (Docket DT 01-221) and the New Hampshire
20 Senate Energy and Economic Development Committee regarding the merits of
21 alternative regulation legislation for small telephone companies.

22 **Q.** **What is the purpose of your testimony in this docket?**

1 A. The purpose of my testimony is to describe the alternative regulation plan
2 ("Plan") that has been developed for Merrimack County Telephone Company
3 ("MCT"), Kearsarge Telephone Company ("KTC"), Wilton Telephone Company,
4 Inc. ("WTC") and Hollis Telephone Company, Inc. ("HTC") (each, a "Company"
5 and, collectively, the "Companies"). The Companies are all subsidiaries of TDS
6 Telecommunications Corporation. Michael C. Reed, Manager of State
7 Government Affairs of TDS and I together are submitting testimony in support of
8 the filing of alternative regulation plans for each of the Companies. Within his
9 direct testimony, Mr. Reed discusses how each of the Companies meets the
10 criteria for approval of an alternative regulation plan pursuant to RSA 374:3-b.
11 The purpose of my testimony is to describe the specifics of the Plan including
12 how the Plan conforms to the requirements of RSA 374:3-b.

13 Q. **Why are the Companies seeking an alternative form of regulation?**

14 A. The telecommunications environment is evolving rapidly and the Companies now
15 face competition as never before. Given the extent of competition that the
16 Companies are facing, we believe it is necessary to move to a form of regulation
17 that will provide them with the flexibility to compete while preserving high
18 quality and reasonably priced service for their customers. As Mr. Reed
19 demonstrates, competition is having a major impact on the traditional telephone
20 business and revenue sources of each of the Companies, and customers now have
21 choices that were not available to them in the past.

22 Under the existing regulatory scheme in New Hampshire, competitive
23 local exchange carriers ("CLECs") are not subject to traditional utility regulation

1 while rural ILECs remain under rate-of-return regulation. In order to survive in
2 this competitive environment, the Companies need to offer innovative services
3 along with bundles of services in a timely manner comparable to the flexibility
4 afforded CLECs. At the same time, however, it is imperative to preserve
5 universal service and provide high quality service at a reasonable price. We have
6 designed an alternative regulation plan for each Company that will meet these
7 objectives.

8 Q. **In your opinion, do you believe that competition will continue to develop in
9 the areas served by the Companies?**

10 A. Yes I do, which further necessitates the need for an alternative form of regulation
11 for each Company. Rural ILECs currently face a competitive threat in their
12 markets from cable companies, facilities-based CLECs and wireless companies.
13 The competition developing today in rural territories is the reverse of what was
14 expected and the reverse of what the Regional Bells experienced. Instead of
15 CLECs competing for business customers using the traditional wireline network,
16 alternative providers are competing for rural ILEC's residential customers over
17 new technologies that do not rely on the wireline network. Wireless service is
18 growing, and cable companies are now able to offer quality telephony service
19 over their expansive cable networks. The growth of the Internet, along with the
20 growth of broadband providers, is driving down measured minutes of use from
21 access and increasing the percentage of time for local usage. An increasing
22 number of users are simply dropping off the network altogether and instead

1 relying on Voice over the Internet Protocol (VoIP), wireless phones or other
2 substitutes.

3 While many of these new services are not the exact equivalent of wireline
4 service, they are substitutable services, and are services which are increasingly
5 attractive to customers at the prices at which they are offered. As other providers
6 continue to offer packaged services at attractive rates (e.g., nationwide long
7 distance with no roaming charges and hundreds of minutes included, along with
8 free night and weekend calling), the more that wireless service will become a
9 substitute for wireline service. And, as more customers use other networks, the
10 Companies will continue to lose more access revenues and lines.

11 **Q. Can you briefly describe the development of the alternative regulatory plan?**

12 A. Since there are no other companies on alternative regulation in New Hampshire
13 and the Commission has not issued any administrative rules to effectuate RSA
14 374:3-b, we used the criteria set forth in the statute itself along with our own
15 experience.

16 **Q. What are the goals of the Plan?**

17 A. The goals of the Plan are designed to comply with the specific criteria set forth in
18 RSA 374:3-b. Specifically, the goals are to:

- 19 • Set forth the regulatory requirements applicable to the retail operations of
20 the Companies that are comparable to the regulation the Commission
21 applies to competitive local exchange carriers.

- 1 • Ensure that a high level of service continues to be provided to customers
2 while maintaining a network that meets customer needs and allows
3 customers to have access to innovative services.
- 4 • Facilitate the transition to a competitive telecommunications market in the
5 areas served by the Companies.
- 6 • Meet intercarrier service obligations.
- 7 • Preserve universal service by maintaining the status of each of the
8 Companies as the carrier of last resort to ensure customers have access to
9 affordable basic telephone service.

10 **Q. How does the Plan achieve these goals?**

11 A. I will describe the general concepts of how the Plan meets each of these goals, but
12 first let me describe the pricing provisions of the Plan that conform to the
13 requirements set forth in RSA 374:3-b.

14 **Q. Please briefly describe the pricing provisions of the Plan.**

15 A. For purposes of conforming the Plan to the basic objectives of the statute (i.e.,
16 significantly reducing regulation of retail services while preserving universal
17 service and meeting intercarrier obligations), the services are put into three
18 buckets: (i) basic retail services, (ii) non-basic retail services and (iii) wholesale
19 services. While it is defined further within the Plan, basic retail services are
20 residential and business single-party line voice services that include the additional
21 features that comprise “basic service” as defined in Puc 412.01. Wholesale
22 services are those services that are provisioned to other telecommunications
23 carriers for interconnection of networks (e.g., switched access, reciprocal

1 compensation, special access). Any other services that do not fall within the
2 definitions for basic retail services or wholesale services are classified as non-
3 basic retail services.

4 **Q. How are rates for basic retail services set under the Plan?**

5 A. As required by the guiding statute, rates for basic retail services cannot be raised
6 higher than the rates charged by the largest incumbent local exchange carrier in
7 New Hampshire (“rate cap”). Essentially, each of the Companies will be able to
8 adjust rates at its own discretion as long as it does not exceed this rate cap;
9 however, each rate will not increase by more than 10 percent each year for the
10 initial four years under the Plan (this is called the “annual percentage rate cap”).

11 **Q. Are exogenous adjustments made to the rates for basic retail service used in
12 determining the rate caps or the annual percentage rate cap?**

13 A. As stated in the statute, rate changes do not include changes made as a result of an
14 exogenous change as defined within the Plan. As a result, the rate cap and annual
15 percentage rate cap will need to be adjusted to reflect the rate cap plus or minus
16 any changes made due to an exogenous event.

17 **Q. Could you explain the exogenous change provision of the Plan?**

18 A. The purpose of the exogenous change provision is to allow the Company to make
19 changes to its rates for basic retail services due to financial impacts that resulted
20 from a governmental action that was not within the control of the Company.
21 Specifically, an exogenous event shall mean a change in any single federal, state,
22 or local government tax, mandate, rule, regulation, or statute that causes a change
23 in a local exchange carrier’s total intrastate regulated revenue, expenses, or plant

1 in service, of more than 2% in any twelve-month period, as compared to the base
2 period. The process would entail the Company filing a petition with the
3 Commission (or the Commission acting upon its own motion) seeking such
4 adjustments to a basic retail service rate beyond that allowed within the Plan.
5 After an opportunity for a hearing on the matter, the Commission would either
6 approve or disapprove the petition.

7 While it is not anticipated that there will be many exogenous events, the
8 provision is needed to allow for events that are outside the control of the
9 Company. For example, if the Federal Communications Commission (FCC)
10 eventually implements a new regime for intercarrier compensation, the Company
11 may need to adjust its basic retail rates to reach a specific national benchmark rate
12 before drawing from a national funding mechanism. Such a government mandate
13 would likely necessitate a Company to have to adjust its basic retail rates beyond
14 that allowed for under its Plan.

15 **Q. Will the Companies be able to offer customers bundles of services that
16 include basic retail service?**

17 A. Yes. As long as the basic retail service in the bundle is available separately to the
18 customer, each of the Companies will also be able to offer it in a bundle with any
19 other service. The rates for the bundle will not be limited by a cap or any other
20 restriction. However, customers desiring the stand-alone basic retail service will
21 continue to be able to purchase it subject to the rate cap.

22 **Q. What tariffing requirements are required by the Plan when establishing
23 prices for basic retail services for each of the Companies?**

1 A. Appendix A of my testimony lists the PUC Rules that we believe to be in
2 concurrence with RSA 374:3-b. In the case of tariffing, we will be following the
3 requirements of PUC 431.05 a-c.

4 Q. **How are rates for non-basic retail services set under the Plan?**

5 A. Under the Plan, rates for non-basic retail services will be subject to the same very
6 limited regulation that competitive companies face, i.e., the limits on these rates
7 will be set by the market, not by regulation.

8 Q. **What tariffing requirements are required by the Plan when establishing
9 prices for the TDS Applicant's non-basic local retail service?**

10 A. Appendix A of my testimony lists the PUC Rules that we believe to be in
11 concurrence with RSA 374:3-b. In the case of tariffing, we will be following the
12 requirements of PUC 431.05 a-c.

13 Q. **How are rates for wholesale services set under the Plan?**

14 A. Under the Plan, there are no changes to the existing level of regulation regarding
15 the pricing, tariffing or other state and federal intercarrier obligations concerning
16 the TDS Applicants provisioning of wholesale services.

17 Q. **Getting back to the goals of the Plan, how does the Plan regulate the retail
18 operations comparable to the regulation the PUC applies to a CLEC?**

19 A. As stated in the statute, the Companies will be regulated in a manner comparable
20 to the regulation that applies to a CLEC. The exceptions are (i) the cap on basic
21 retail service rates, (ii) the regulation of wholesale service rates and (iii) the
22 continuing requirement for each of the Companies to serve as the carrier of last

1 resort. Appendix 1 of the Plan details the administrative rules that will be
2 applicable to the Companies while they are operating under this Plan.

3 **Q. Please briefly describe how you arrived at the list of administrative rules that**
4 **will be applicable to the Companies under the Plan?**

5 A. Given that there are no existing rules that deal with the regulation of an ILEC
6 under alternative regulation, we reviewed all of the administrative rules applicable
7 to ILECs and CLECs. As stated within RSA 374:3-b, we applied the ILEC rules
8 that are comparable to a CLEC rule while retaining the ILEC rules that are
9 applicable to being the carrier of last resort and intercarrier obligations. We also
10 applied some specific CLEC rules (e.g., uniform tariff, service outage, pertinent
11 CLEC reporting requirements) to conform more closely to being regulated
12 comparable to a CLEC.

13 **Q. How does the Plan meet its goal to promote the offering of innovative**
14 **telecommunications services in New Hampshire?**

15 A. As Mr. Reed describes in his testimony, competition already exists in the market
16 areas of the Companies. Innovative services, in the form of new services, new
17 pricing structures and service bundles are already being offered by competitors.
18 In order to effectively compete, the Companies will need to do the same. The
19 companies will have no choice but to be innovative, invest wisely, and price
20 appropriately; otherwise, they will continue to lose customers and revenues to
21 competitors.

22 As one of the Plan's goals, each of the Companies commits to providing
23 its customers with a high quality network by making investments in its

1 telecommunications infrastructure as well as maintaining the network to ensure its
2 reliability for the provisioning of high quality services to its customers. Given
3 that other providers of services (e.g., VoIP providers) will purchase access to or
4 utilize a Company's network, customers will also receive the benefit of innovative
5 services from these other providers who require a quality network to deliver their
6 services to the end users.

7 Moreover, this Commission will continue to maintain the ability to
8 monitor the provisioning of service by the Companies to its customers.
9 Specifically, the Companies will continue reporting service quality metrics to the
10 Commission, which will aid it in ensuring that customers are receiving adequate
11 service. If any of the Companies fail to meet the requirements of the statute, the
12 Commission will be able to require the Company to comply, require modification
13 of the Plan to achieve compliance, or require the Company to return to rate-of-
14 return regulation.

15 **Q. Does the alternative regulation plan meet intercarrier service obligations
16 under applicable laws while allowing for a transition to a competitive
17 telecommunications market?**

18 A. Yes it does. As stated earlier, the Plan does not include any changes to state and
19 federal intercarrier service obligations, which include access services and
20 obligations under the Telecommunications Act of 1996.

21 **Q. Does the Plan preserve universal access to affordable basic telephone
22 service?**

1 A. As stated above, each of the Companies will continue investing in its network to
2 meet customers' needs, ensuring that customers receive essential services. At the
3 same time, each of the Companies will adhere to the rate caps on basic retail
4 service and will comply with all universal service rules.

5 **Q. What is the term of the Plan?**

6 A. The Plan does not have a termination date. Each of the Companies can terminate
7 the Plan upon its own initiative by filing a letter of termination with the
8 Commission. Upon filing such a letter, the TDS Applicant can either file
9 modifications to the Plan or return back to its prior regulation or any other form of
10 regulation it could elect.

11 **Q. What would happen under the Plan in the event that the TDS Applicant fails
12 to meet any of the conditions for alternative regulation set forth in RSA
13 374:3-b?**

14 A. In such an event, the Commission would be able to require the respective
15 Company to comply with the requirement, require modification of the Plan to
16 achieve compliance or require the Company to return to rate-of-return regulation.
17 An evidentiary hearing would be afforded the affected Company to determine
18 whether or not it was meeting the conditions set forth in RSA 374:3-b.

19 **Q. How will the Plan benefit consumers in areas served by the Companies?**

20 A. The Plan is designed to provide consumers with more societal benefits than they
21 currently get under traditional rate-of-return regulation. Specifically, customers
22 will benefit under the Plan because the rates for their basic retail service can only
23 be increased by up to 10 percent per year and will not be any higher than the

1 majority of other customers, including those in urban areas. Under traditional
2 rate-of-return regulation, the customer does not have such protection.

3 Furthermore, customers will be offered new and attractive services in a
4 timely manner to meet their growing telecommunications needs. Within the Plan
5 the Companies commit to providing their respective customers with a high quality
6 network by making investments in telecommunications infrastructure as well as
7 maintaining the network to ensure reliability. The commitment to maintain a high
8 quality infrastructure is vital in attracting new business and ultimately leads to
9 additional income, potential job opportunities, and the provision of advanced and
10 new services, all of which provides benefits to customers.

11 Q. **Does this conclude your direct testimony?**

12 A. Yes, it does.