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October 12, 2010

Re: DT 07-027, TDS Companies
Petitions for an Alternative Form of Regulation
Rulings on Evidentiary Issues

To the Parties:

During the September 27, 2010 hearing regarding the TDS Companies' Petition for an Alternative Form of Regulation, TDS proposed to enter into the record a series of exhibits marked as KTC-MCT 14P, KTC-MCT 14C and KTC-MCT 14A. Those exhibits are, respectively, the public, confidential and amended versions of the Affidavit of Thomas E. Murray Regarding Kearsarge Telephone Company. The public and confidential versions of the affidavit were filed on June 11, 2010.

At the September 27th hearing, TDS sought to introduce the amended affidavit, exhibit KTC-MCT 14A, contending that the changes noted in it were to update information about Comcast's web presence that Mr. Murray had learned since the public and confidential versions of his affidavit were submitted. The OCA objected on the basis that the affidavit reflected what Mr. Murray believed to be factual at the time the affidavit was created and that it was improper for TDS to amend the affidavit to restate Mr. Murray's more current understanding of the facts. The Commission took the matter under advisement.

This letter sets out the Commission's determination regarding exhibit KTC-MCT 14A. During the hearing, TDS entered the pre-filed rebuttal testimony of Mr. Murray into the record. On pages 4 and 5 of his pre-filed rebuttal testimony, Mr. Murray states that he misunderstood the information on the website he used at the time he submitted his affidavit, and that he later learned that the website was run by an authorized dealer for Comcast and not Comcast itself. In addition, TDS entered into the record the original versions of the affidavits, exhibits KTC-MCT 14P and KTC-MCT 14C, which contained the initial references to Comcast. As such, the record demonstrates what Mr. Murray understood and when he understood it. Consequently, admitting the amended affidavit will not counter, alter or obscure the facts surrounding Mr. Murray's understanding of the facts. To the contrary, admitting all three versions of Exhibit 14 serves to complete the record. Accordingly, the Commission has determined to admit exhibit KTC-MCT 14A into evidence and accord it the weight to which it is entitled.

Sincerely,

A handwritten signature in cursive script that reads "Debra A. Howland".

Debra A. Howland
Executive Director