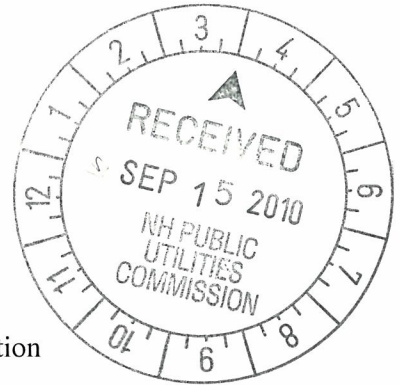


September 15, 2010

HARRY N. MALONE
T 603.695.8532
HMALONE@DEVINEMILLIMET.COM

VIA HAND DELIVERY

Debra A. Howland, Executive Director & Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301



Re: DT 07-027; TDS Companies Petition for Alternative Form of Regulation

Dear Ms. Howland,

On behalf of Merrimack County Telephone Company and Kearsarge Telephone Company (collectively, the "Petitioners"), we support the Commission Staff's Objection to the Motion to Quash of the Office of Consumer Advocate ("OCA"), dated September 14, 2010. As the Staff pointed out, the process used here is exactly what the Commission prescribed in its Order No. 25,130 dated July 15, 2010 in this Docket. Moreover, the Commission has broad investigative powers under RSA 365:19 which constitute additional authority for the issuance of these data requests. Thus, the Commission is well within its authority to make inquiry of Comcast in pursuit of the facts related to the Petitioners' alternative regulation proposal. Furthermore, RSA 365:19 addresses any claims that the Staff's questions to Comcast are untimely. The statute has no restrictions as to time, and in fact provides that the Commission may conduct an investigation "before or after such hearing."

We would also like to emphasize that OCA will not be prejudiced by this inquiry. First, OCA itself expressed a preference for evidence obtained from Comcast directly.¹ Second, OCA has been on notice since the Commission's July 15th Order that inquiries would be made of Comcast. Finally, the OCA was given the opportunity to represent its interests by providing advice to Staff regarding the content of the questions -- advice that OCA and another party, Mr. Daniel Bailey, pointedly declined to provide.²

We strongly disagree with OCA that administrative efficiency is served by quashing the requests to Comcast. Indeed, the alternative would be to join Comcast as a party, dragging it into a proceeding involving a competitor. This would inevitably lead to further discovery and controversial motion practice regarding competitively sensitive information. Given the narrow

¹ Eckberg Direct 6:19-22. "I would have gone directly to the Comcast website - or tried to - because I knew that I was looking for information specifically from Comcast"

² See emails attached hereto.

Ms. Howland
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focus of the remaining issues in this Docket and the straightforward nature of the Staff's data requests, the issuance of these data requests is an eminently practical and efficient approach to developing an accurate and complete record.

Finally, the Petitioners request that the Commission rule on the OCA Motion as soon as possible, as all parties who might potentially object have now responded.

Very truly yours,



Harry N. Malone

HNH:rah
Enclosures

cc: Electronic Service List

Harry Malone

From: Hollenberg, Rorie [Rorie.E.P.Hollenberg@oca.nh.gov]
Sent: Friday, September 10, 2010 8:43 AM
To: Bailey, Kate
Cc: Eckberg, Stephen R.; Hatfield, Meredith; Traum, Ken; ssg@orr-reno.com; jdonahue@preti.com; llockhart@preti.com; eemerson@ppeclaw.com; pphillips@ppeclaw.com; jeremy@segstel.com; kath@segstel.com; Robert C. Dewhirst; dfeltes@nhla.org; Frederick J. Coolbroth; Stacey_Parker@cable.comcast.com; brian_rankin@comcast.com; Harry Malone; crand@gstnetworks.com; srand@gstnetworks.com; bstafford@gstnetworks.com; mylow@mintz.com; Carmody, Jody; Fabrizio, Lynn; Fossum, Matthew; Ladam, Michael; Ross, F. Anne; Stachow, Leszek; alinder@nhla.org; Hollenberg, Rorie
Subject: RE: Questions for Comcast, DT 07-027

Kate:

The OCA also will not have any questions for Comcast, and we concur with the positions expressed and suggestion made by NHLA. Thank you and have a good day.

Rorie

Rorie E.P. Hollenberg

Staff Attorney

Office of Consumer Advocate

21 S. Fruit St., Ste. 18

Concord, N.H. 03301

(603) 271-1173

rorie.e.p.hollenberg@oca.nh.gov

Statement of Confidentiality

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-----Original Message-----

From: Dan Feltes [mailto:dfeltes@nhla.org]

Sent: Thursday, September 09, 2010 4:34 PM

To: fcoolbroth@devinemillimet.com; Stacey_Parker@cable.comcast.com; brian_rankin@comcast.com; hmalone@devinemillimet.com; crand@gstnetworks.com; srand@gstnetworks.com; bstafford@gstnetworks.com; mylow@mintz.com; dfeltes@nhla.org; Carmody, Jody; Fabrizio, Lynn; Fossum, Matthew; Ladam, Michael; Ross, F. Anne; Stachow, Leszek; alinder@nhla.org; Bailey, Kate; Eckberg, Stephen R.; Hatfield, Meredith; Hollenberg, Rorie; Traum, Ken; ssg@orr-reno.com; jdonahue@preti.com; llockhart@preti.com; eemerson@ppeclaw.com; pphillips@ppeclaw.com; jeremy@segstel.com; kath@segstel.com; rdewhirst@devinemillimet.com

Subject: Questions for Comcast, DT 07-027

Dear Kate:

We have considered submitting questions, however, we think the submission of questions to a non-party without meaningful discovery and an opportunity for cross examination isn't a fair process, and it is also not in accord with Commission rules, RSA 541-A or due process. Accordingly, Mr. Bailey will not be submitting questions to Comcast. We respectfully suggest that

9/15/2010

the Staff reconsider its proposal to submit questions to Comcast. If questions are submitted to Comcast, we do not believe the information provided should be considered by the Commission in any manner in the absence of an opportunity for formal discovery and follow up pursuant to Commission rules and the opportunity for cross examination and rebuttal testimony.

Thank you for your time.

Respectfully,

Dan & Alan

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