

1                                   **STATE OF NEW HAMPSHIRE**

2                                   **PUBLIC UTILITIES COMMISSION**

3  
4   **December 4, 2007 - 1:37 p.m.**

5   Concord, New Hampshire

**DAY I**

6                   RE:   **DT 07-027**

7                                   **KEARSARGE TELEPHONE CO., WILTON TELEPHONE**  
8                                   **CO., HOLLIS TELEPHONE CO., AND MERRIMACK**  
9                                   **COUNTY TELEPHONE CO.: Petitions for**  
                                  **Alternative Regulation Pursuant to**  
                                  **RSA 374:3-b.**

10           **PRESENT:**   Chairman Thomas B. Getz, Presiding  
11                                   Commissioner Graham J. Morrison  
                                  Commissioner Clifton C. Below

12                                   Connie Fillion, Clerk

13           **APPEARANCES:**   **Reptg. Kearsarge Telephone, Wilton Telephone,**  
14                                   **Hollis Telephone & Merrimack County**  
                                  **Telephone:**

15                                   Frederick J. Coolbroth, Esq. (Devine...)

16                                   **Reptg. segTEL, Inc.:**

17                                   Susan S. Geiger, Esq. (Orr & Reno)

18                                   **Reptg. Granite State Telephone:**

19                                   Paul J. Phillips, Esq. (Primmer, Piper...)

20                                   **Reptg. Comcast Phone of New Hampshire:**

21                                   Paul D. Abbott, Esq. (Mintz, Levin...)

22                                   Stacey L. Parker, Esq.

23                   COURT REPORTER:   Steven E. Patnaude, LCR (#52)

24                                   **[REDACTED - For public use]**

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**APPEARANCES: (C o n t i n u e d)**

**Reptg. Daniel Bailey:**

Alan Linder, Esq. (N.H. Legal Assistance)

Daniel Feltes, Esq. (N.H. Legal Assistance)

**Reptg. Residential Ratepayers:**

Meredith Hatfield, Esq., Consumer Advocate

Office of Consumer Advocate

**Reptg. PUC Staff:**

F. Anne Ross, Esq.

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I N D E X

PAGE NO.

**WITNESS:                   MICHAEL C. REED**

Direct examination by Mr. Coolbroth                   17

**WITNESS PANEL:       MICHAEL C. REED  
                          KATHRYN M. BAILEY  
                          JOSIE A. M. GAGE  
                          KENNETH E. TRAUM**

Direct examination by Ms. Ross                   25, 38

Direct examination by Ms. Hatfield               34, 54

Cross-examination by Mr. Linder               55

Cross-examination by Mr. Feltes               85

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
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14  
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**E X H I B I T S**

<b>EXHIBIT NO.</b>	<b>D E S C R I P T I O N</b>	<b>PAGE NO.</b>
HTC 1P	Alternative Regulation Plan for Hollis Telephone Company, Inc.  Hollis Exchange Key Map <b>(Confidential)</b>	premarked
HTC 2P	Direct Testimony of Michael C. Reed (Public)	premarked
HTC 2C	Direct Testimony of Michael C. Reed <b>(Confidential)</b>	premarked
HTC 3P	Direct Testimony of Timothy W. Ulrich (Public)	premarked
HTC 4P	Rebuttal Testimony of Michael C. Reed (Public)	premarked
HTC 4C	Rebuttal Testimony of Michael C. Reed <b>(Confidential)</b>	premarked
HTC 5P	Rebuttal Testimony of Timothy W. Ulrich (Public)	premarked
KTC 1P	Alternative Regulation Plan for Kearsarge Telephone Company, Inc.  Salisbury Exch. Key Map <b>(CONFIDENTIAL)</b> Meriden Exch. Key Map <b>(CONFIDENTIAL)</b> New London Exch. Key Map <b>(CONFIDENTIAL)</b> Chichester Exch. Key Map <b>(CONFIDENTIAL)</b> Andover Exch. Key Map <b>(CONFIDENTIAL)</b> Boscawen Exch. Key Map <b>(CONFIDENTIAL)</b>	premarked
KTC 2P	Direct Testimony of Michael C. Reed (Public)	premarked
KTC 2C	Direct Testimony of Michael C. Reed <b>(Confidential)</b>	premarked
KTC 3P	Direct Testimony of Timothy W. Ulrich (Public)	premarked

# EXHIBITS

EXHIBIT NO.	DESCRIPTION	PAGE NO.
KTC 4P	Rebuttal Testimony of Michael C. Reed (Public)	premarked
KTC 4C	Rebuttal Testimony of Michael C. Reed ( <b>CONFIDENTIAL</b> )	premarked
KTC 5P	Rebuttal Testimony of Timothy W. Ulrich (Public)	premarked
MCT 1P	Alternative Regulation Plan for Merrimack County Telephone Company	premarked
	Antrim Exch. Key Map ( <b>CONFIDENTIAL</b> )	
	Bradford Exch. Existing Sys. ( <b>CONFIDENTIAL</b> )	
	Contoocook Exch. Key Map ( <b>CONFIDENTIAL</b> )	
	Henniker Exch. Existing Sys. ( <b>CONFIDENTIAL</b> )	
	Hillsboro Exch. Key Map ( <b>CONFIDENTIAL</b> )	
	Melvin Village Exch. Key Map ( <b>CONFIDENTIAL</b> )	
	Warner Exch. Base Map ( <b>CONFIDENTIAL</b> )	
	Sutton Exch. Base Map ( <b>CONFIDENTIAL</b> )	
MCT 2P	Direct Testimony of Michael C. Reed (Public)	premarked
MCT 2C	Direct Testimony of Michael C. Reed ( <b>Confidential</b> )	premarked
MCT 3P	Direct Testimony of Timothy W. Ulrich (Public)	premarked
MCT 4P	Rebuttal Testimony of Michael C. Reed (Public)	premarked
MCT 4C	Rebuttal Testimony of Michael C. Reed ( <b>Confidential</b> )	premarked
MCT 5P	Rebuttal Testimony of Timothy W. Ulrich (Public)	premarked
WTC 1P	Alternative Regulation Plan for Wilton Telephone Company, Inc.	premarked
	Wilton Exch. Key Map ( <b>CONFIDENTIAL</b> )	

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WTC 2P	Direct Testimony of Michael C. Reed (Public)	premarked
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WTC 4C	Rebuttal Testimony of Michael C. Reed <b>(Confidential)</b>	premarked
WTC 5P	Rebuttal Testimony of Timothy W. Ulrich (Public)	premarked
6	Settlement Agreement (12-03-07)	26
BAILEY 22C	Response to Data Request Patnode 1-42 <b>(CONFIDENTIAL)</b>	83

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
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MR. COOLBROTH: Good afternoon, Mr. Chairman, Commissioners. On behalf of Hollis Telephone Company, Inc., Wilton Telephone Company, Inc., Kearsarge Telephone Company and Merrimack County Telephone Company, I'm Frederick Coolbroth, of the firm of Devine, Millimet &

1 Branch, here in Concord. With me today at counsel table  
2 are Michael Reed and Deborah Martone from the Company.

3 CHAIRMAN GETZ: Good afternoon.

4 CMSR. MORRISON: Good afternoon.

5 CMSR. BELOW: Good afternoon.

6 MR. PHILLIPS: Good afternoon, Mr.  
7 Chairman and Commissioners. I'm Paul Phillips, from the  
8 law firm of Primmer, Piper, Eggleston & Cramer, on behalf  
9 of Granite State Telephone, Inc. And, with me are Mr.  
10 Chris Rand and Mr. Bill Stafford, from Granite State  
11 Telephone.

12 CMSR. BELOW: Good afternoon.

13 CMSR. MORRISON: Good afternoon.

14 CHAIRMAN GETZ: Good afternoon.

15 MR. LINDER: Good afternoon, Mr.  
16 Chairman and Commissioners. My name is Alan Linder. I'm  
17 with New Hampshire Legal Assistance, and with me at  
18 counsel table is Attorney Dan Feltes, we represent Daniel  
19 Bailey.

20 CHAIRMAN GETZ: Good afternoon.

21 CMSR. MORRISON: Good afternoon.

22 CMSR. BELOW: Good afternoon.

23 MR. LINDER: Thank you.

24 MS. GEIGER: Good afternoon, Mr.



1 Chairman, Commissioner Below, Commissioner Morrison. I'm  
2 Susan Geiger, from the law firm of Orr & Reno, and I  
3 represent segTEL, Inc.

4 CHAIRMAN GETZ: Good afternoon.

5 CMSR. MORRISON: Good afternoon.

6 CMSR. BELOW: Good afternoon.

7 MR. ABBOTT: Good afternoon. Paul  
8 Abbott, from the law firm of Mintz, Levin, representing  
9 Comcast Phone of New Hampshire, and with me is Stacey  
10 Parker, from Comcast.

11 CHAIRMAN GETZ: Good afternoon.

12 CMSR. MORRISON: Good afternoon.

13 CMSR. BELOW: Good afternoon.

14 MS. HATFIELD: Good afternoon,  
15 Commissioners. Meredith Hatfield, for the Office of  
16 Consumer Advocate, on behalf of residential ratepayers.  
17 And, with me I have Rorie Hollenberg, Ken Traum, and Steve  
18 Eckberg from our office.

19 CMSR. BELOW: Good afternoon.

20 CMSR. MORRISON: Good afternoon.

21 CHAIRMAN GETZ: Good afternoon.

22 MS. ROSS: Good afternoon,  
23 Commissioners. Anne Ross, for the Commission Staff. And,  
24 with me today are Kate Bailey, Director of the Telecom

1 Division; Pradip Chattopadhyay, Assistant Director; and  
2 Josie Gage, an analyst with the Telecom Division.

3 CMSR. BELOW: Good afternoon.

4 CMSR. MORRISON: Good afternoon.

5 CHAIRMAN GETZ: All right. Good  
6 afternoon. There's a few motions that have been filed  
7 that I'd like to make sure I'm clear on all of those.  
8 There's a -- One is the motion filed by the Consumer  
9 Advocate on November 28, it's a motion to strike portions  
10 of the rebuttal testimony. And, I'd just ask,  
11 Ms. Hatfield, what's the status of that? Do you continue  
12 to press that motion?

13 MS. HATFIELD: Yes. Thank you, Mr.  
14 Chairman. The OCA believes that, although we have reached  
15 a settlement in this case, that the issues presented in  
16 our motion still warrant Commission action.

17 CHAIRMAN GETZ: Okay. And, I guess  
18 there's a couple of ways to address that. We could hear  
19 orally from parties today or set an opportunity for a  
20 written reply on a short turnaround, I would say early  
21 next week. Do the parties have any preference on how to  
22 deal with that motion?

23 MR. COOLBROTH: Mr. Chairman, we would  
24 prefer the written reply, actually have started that

1 process, and we can complete that and get that filed with  
2 the Commission promptly.

3 CHAIRMAN GETZ: Okay. Is Monday, the  
4 10th, too soon to set a deadline for responses on that  
5 motion?

6 MR. COOLBROTH: That will be fine.

7 CHAIRMAN GETZ: Okay. Then, we will  
8 expect any party that would like to respond to do so by  
9 Monday, December 10.

10 We also have the motion by segTEL filed  
11 on December 3rd, as I interpret it, a motion to withdraw  
12 the original motion to compel and set aside the order, I  
13 guess denying that motion to compel. And, any objection  
14 to adopting the same procedure, that anyone who wants to  
15 respond to that can do so by Monday, the 10th?

16 (No verbal response)

17 CHAIRMAN GETZ: Okay. Hearing no  
18 objection, then we'll use that same process and deadline  
19 for responses will be Monday. Okay. And, then, we have  
20 -- there was a filing on November 9th by Comcast, with  
21 respect to withdrawing a motion for protection from public  
22 disclosure and confidential treatment, some issues that  
23 would -- that were confidential that had been raised in  
24 TDS's data responses -- or, data requests. I assume that

1 issue is moot, is that correct, Mr. Abbott?

2 MR. ABBOTT: That's correct, yes.

3 CHAIRMAN GETZ: Okay. And, then, I  
4 guess the only other thing I think is also resolved. But,  
5 Mr. Linder, you had filed basically to substitute  
6 Mr. Bailey for Patnode. Is that a fair characterization  
7 of your motion?

8 MR. LINDER: Yes, it is, Mr. Chairman.

9 CHAIRMAN GETZ: Okay. And, then, we did  
10 file a -- issue a secretarial letter on the 16th, but  
11 we'll note that the substitution is approved and that you  
12 will be representing Mr. Bailey, and not Mr. Patnode.

13 MR. LINDER: Yes. Thank you, Mr.  
14 Chairman. And, I guess I should also note for the record  
15 that there is no relationship between our client,  
16 Mr. Bailey, and Staff member Kate Bailey.

17 CHAIRMAN GETZ: Or Mr. Patnaude, for  
18 that matter.

19 (Laughter.)

20 CHAIRMAN GETZ: Okay. Thank you. Are  
21 there any other procedural matters before -- well, I guess  
22 I'm expecting there will be some recommendation from the  
23 parties on how to proceed with witnesses in a panel on the  
24 Partial Settlement. But, before we address that, are

1       there other outstanding procedural matters?

2                       (No verbal response)

3                       CHAIRMAN GETZ:   Okay.   Hearing nothing,  
4       then is there a recommendation from the parties on how to  
5       proceed today?

6                       MS. ROSS:   Yes.   The parties would like  
7       to begin by having the Company introduce its original  
8       petitions in testimony, and then the parties would like to  
9       present a panel of four witnesses to discuss the  
10      Settlement Agreement that -- the Partial Settlement  
11      Agreement that's been reached, which is entered into by  
12      most of the parties or not objected to, except for New  
13      Hampshire Legal Assistance.   And, then, we would allow,  
14      following that panel and cross of that panel by any party  
15      who wishes, including the Commission, we would move into  
16      actual individual witnesses who have prefiled testimony in  
17      this case, and we would allow an opportunity for New  
18      Hampshire Legal Assistance to cross-examine those  
19      witnesses.   That will begin today, and continue into  
20      tomorrow, that aspect of the hearing.

21                      CHAIRMAN GETZ:   Okay.   Does everybody  
22      agree with that process?

23                      MR. COOLBROTH:   Mr. Chairman, one point  
24      would be that, in connection with hearing the Settlement,

1 when we filed it, we filed a request for a waiver of Rule  
2 203.20(e), which requires basically a one week prior  
3 notice. We went down to the wire with this one, and are  
4 asking the Commission to waive that rule so that it could  
5 be heard today.

6 CHAIRMAN GETZ: Okay. Mr. Linder, did  
7 you have something?

8 MR. LINDER: I was just going to add to  
9 what Ms. Ross said, that we also have a witness who would  
10 be testifying tomorrow, Dr. Johnson.

11 CHAIRMAN GETZ: Okay.

12 MR. LINDER: And, we had filed his  
13 prefiled testimony. And, so, he would be testifying.

14 CHAIRMAN GETZ: Okay. Well, then, let's  
15 just -- the first thing, there's an outstanding motion to  
16 waive the time period for filing a settlement agreement.  
17 Is there any objection to waiving that time period?

18 (No verbal response)

19 CHAIRMAN GETZ: Okay. Hearing nothing,  
20 and recognizing that good grounds have been noted for the  
21 waiver, we will grant the waiver and hear the Settlement.  
22 One thing I did neglect to mention is that we have a  
23 letter from Mr. Phillips noting that Granite State  
24 Telephone has no objection to the Commission's adoption of

1 CHAIRMAN GETZ: -- Kowolenko's testimony  
2 adopted and entered as if he had appeared here personally  
3 and been subject to cross-examination. Is there any  
4 objection to that motion from Mr. Abbott?  
5 MR. LINDER: No objection.  
6 CHAIRMAN GETZ: Hearing no objection,  
7 we'll treat the testimony in that manner.  
8 MR. ABBOTT: Thank you.  
9 CHAIRMAN GETZ: Anything further?  
10 MR. COOLBROTH: Mr. Chairman, my file  
11 does show a letter from Union Communications dated  
12 yesterday, I believe it was served on the electronic list,  
13 indicating that Union does not have cross-examination for  
14 any witness and will not be attending.  
15 CHAIRMAN GETZ: Okay. All right. Thank  
16 you. And, we'll just make sure that those, hard copies of  
17 both those letters from Comcast and Union get into the  
18 record.  
19 Okay. I think we're ready to proceed.  
20 Mr. Coolbroth.  
21 MR. COOLBROTH: We call Michael Reed.  
22 (Whereupon **Michael C. Reed** was duly  
23 sworn and cautioned by the Court  
24 Reporter.)

[Witness: Reed]

**MICHAEL C. REED, SWORN**

**DIRECT EXAMINATION**

BY MR. COOLBROTH:

Q. Mr. Reed, would you please state your full name and your business address.

A. Michael Reed. My business address is 24 Depot Square, Northfield, Vermont.

Q. And, by whom are you employed and in what capacity?

A. TDS Telecom. I am the State Government Affairs Manager.

Q. And, I'm going to direct your attention to a series of documents, and try to do this expeditiously. First, I'd like to direct your attention to documents that have been premarked and delivered to the clerk as "Exhibit HTC-1P", which is Alternative Regulation Plan for Hollis Telephone Company, Inc.; "HTC-2P", which is the prefiled Direct Testimony of Michael C. Reed, public version; "HTC-2C", which is the confidential version of prefiled Direct Testimony of Michael C. Reed; "HTC-4P", which is public Rebuttal Testimony of Michael C. Reed; and "Exhibit HTC-4C", confidential Rebuttal Testimony of Michael C. Reed. And, then, corresponding exhibits for Kearsarge Telephone Company, if you could take a look through those. Again, being

{DT 07-027} (12-04-07/Day I)



[Witness: Reed]

1 "KTC-1P", "2P", "2C", "4P", and "4C". And, then,  
2 directing your attention to a corresponding set of  
3 exhibits for Merrimack County Telephone Company, and  
4 again it's "1P", "2P", "2C", "4P", and "4C". And,  
5 finally, for Wilton Telephone Company. And, also, with  
6 each of the packages, there are, are there not, a  
7 package of maps that have been prepared?

8 A. That's correct, yes.

9 Q. And, that accompanies your rebuttal testimony for each  
10 of the Companies?

11 A. Yes.

12 Q. Now, taken together, your direct testimony and your  
13 rebuttal testimony for each of the companies, is the  
14 testimony contained therein true and accurate to the  
15 best of your knowledge and information and belief?

16 A. Yes, it is.

17 Q. Do you have any changes you want to make to that  
18 testimony? Well, apart from the fact that we have  
19 reached a settlement agreement, but putting that aside  
20 for the moment?

21 A. Right. There's no change.

22 Q. And, do you adopt that as your testimony today as  
23 though read into the record?

24 A. I do.

[Witness: Reed]

1 its truth. And, that being the case, I was putting  
2 Mr. Reed's testimony in entirely for its truth. I did not  
3 get a chance to call back Mr. Linder, my apologies, but  
4 that was raised with me at shortly before 1:00, and that  
5 was the first I heard of it. But it is being offered  
6 entirely, and the witnesses will be available for  
7 cross-examination, with the understanding that the  
8 Settlement Agreement fully resolves the issues that are  
9 raised in the prefiled testimony.

10 MR. LINDER: Okay. Thank you for the  
11 clarification.

12 CHAIRMAN GETZ: Well, let me understand  
13 the process then. You're making him available for  
14 cross-examination now or the intention was to introduce  
15 the panel and then make Mr. Reed available for cross?

16 MR. COOLBROTH: My thought would be we  
17 would proceed next with the panel, and then -- but  
18 Mr. Reed will be available for cross-examination of his  
19 testimony, and it could be done after the panel.

20 CHAIRMAN GETZ: And, I'm assuming that  
21 the substance of the cross-examination will be from you,  
22 Mr. Linder?

23 MR. LINDER: Yes.

24 CHAIRMAN GETZ: Are you fine with that

[Witness: Reed]

1 process?

2 MR. LINDER: Yes. It just wasn't clear  
3 until now whether all or part of the testimony was going  
4 to be offered for its truthfulness, because that would  
5 affect -- it could affect the extent of the  
6 cross-examination, because portions of the testimony one  
7 could characterize as being policy versus factual, that  
8 sort of thing. So, the hope was that the extent of the  
9 cross-examination could be limited. But -- So, I will  
10 attempt to limit it as much as possible, with the  
11 understanding that the Petitioners' position is that the  
12 Settlement Agreement resolves the advocacy items put forth  
13 in the testimony, so I'll try to limit it as much as  
14 possible. But, to some extent, they overlap.

15 CHAIRMAN GETZ: Okay. And, I guess with  
16 the understanding also that there's an unresolved motion  
17 to strike some of the rebuttal testimony.

18 MR. LINDER: And, that motion, you're  
19 correct, Mr. Chairman, that motion does overlap somewhat,  
20 because the rebuttal testimony of both Mr. Reed and Mr.  
21 Ulrich, who will be here tomorrow, I understand, have in  
22 it a lot of items that one could characterize as "legal  
23 argument" with respect to legislative history and  
24 statutory interpretation, which, in our view, humbly,

[Witness: Reed]

1 belongs more in a brief, rather than in advocacy or  
2 factual testimony, and I think that was the issue that the  
3 OCA was trying to make in their motion, which we certainly  
4 agree with. And, so, it makes it a little bit awkward  
5 that the testimony has different components that somewhat  
6 overlap. But we do think that a lot of cross-examination  
7 could be eliminated if there were just briefs, and those  
8 arguments, those legal arguments were put in a brief,  
9 rather than in a witness's mouth.

10 CHAIRMAN GETZ: But these issues, the  
11 issues that you're referring to, are broader than the  
12 motion to strike filed by the Consumer Advocate?

13 MR. LINDER: That is correct.

14 CHAIRMAN GETZ: Okay.

15 MR. LINDER: That is correct.

16 CHAIRMAN GETZ: All right.

17 MR. LINDER: So, it's difficult to  
18 segregate the various components. But we'll do the best  
19 we can, and we'll limit our cross-examination as much as  
20 we possibly can.

21 CHAIRMAN GETZ: Mr. Coolbroth.

22 MR. COOLBROTH: Mr. Chairman, I just  
23 wanted to say that this catches Mr. Linder by some  
24 surprise just because of the way the order of events went.

[Witness: Reed]

1 And, I meant -- I did not mean to have that be the result.  
2 The Settling Parties, with a Partial Settlement, were  
3 trying to figure out the best way to present this to the  
4 Commission. And, initially, we were discussing limiting  
5 how the testimony would go in. And, then, really, over  
6 the noontime hour, I heard for the first time that the  
7 other parties desired to put their testimony in entirely  
8 for its truth. And, therefore, changed my position and  
9 felt that we should do the same with ours as well.  
10 Unfortunately, that catches Mr. Linder by surprise, and I  
11 did not intend that.

12 CHAIRMAN GETZ: Well, let's do this.  
13 Let's get all the witnesses sworn in and qualified,  
14 including the panel. And, then, I think it may make sense  
15 to take a few minutes to make sure everybody's clear on  
16 which parts are in and out, or at least which parts  
17 Mr. Linder understands to be in or would propose be out.  
18 And, maybe it might be a good idea for us, during a brief  
19 recess, to consider the motion to strike and resolve that  
20 today, rather than waiting until Monday, which I guess,  
21 Mr. Coolbroth, puts it back onto you to make some  
22 argument. I'm going to allow you the opportunity to make  
23 some argument in opposition to the motion to strike. But  
24 I'll give you a few minutes to ponder that, and while we

1 get the rest of the witnesses sworn.

2 And, also, do you have a hard copy of  
3 the list of exhibits that you're -- can we get a copy of  
4 that?

5 MS. FILLION: And, if he doesn't have  
6 any, I'll go out and make some.

7 MR. COOLBROTH: No, I have plenty. I'm,  
8 unfortunately, drowning in paper.

9 CHAIRMAN GETZ: Okay. Then, if we can  
10 move to the rest of the panel members.

11 MS. ROSS: I'd like to call Kate Bailey  
12 and Josie Gage of the Commission Staff.

13 MS. HATFIELD: And, the OCA calls Ken  
14 Traum.

15 (Whereupon **Kathryn M. Bailey,**  
16 **Josie A. M. Gage** and **Kenneth E. Traum**  
17 were duly sworn and cautioned by the  
18 Court Reporter.)

19 **MICHAEL C. REED, PREVIOUSLY SWORN**

20 **KATHRYN M. BAILEY, SWORN**

21 **JOSIE A. M. GAGE, SWORN**

22 **KENNETH E. TRAUM, SWORN**

23 **DIRECT EXAMINATION**

24 BY MS. ROSS:

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 the number for the Settlement. It doesn't appear to be on  
2 this exhibit list, does it?

3 MS. ROSS: No. And, I'm not sure what  
4 -- those exhibits are marked by company, they're  
5 designated by company. Whereas, this exhibit is I would  
6 call it a "hearing exhibit".

7 MR. COOLBROTH: "Settlement exhibit"  
8 perhaps? I'm not quite sure.

9 CHAIRMAN GETZ: Okay. Well, let's just  
10 call it "Exhibit 6".

11 MS. ROSS: Okay.

12 (The document, as described, was  
13 herewith marked as **Exhibit 6** for  
14 identification.)

15 CHAIRMAN GETZ: Well, Mr. Coolbroth, are  
16 you prepared to respond orally to the Consumer Advocate's  
17 motion to strike your rebuttal testimony from Mr. Reed?

18 MR. COOLBROTH: Yes, Mr. Chairman.  
19 Having in mind that we have reached a settlement to  
20 address many of these issues, but, putting that aside,  
21 what is before the Commission is the interpretation of RSA  
22 374:3-b. And, the Commission's secretarial letter, dated  
23 July 13, 2007, determining that the Commission could not  
24 address the issues raised in the briefs without a full

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 factual record, went onto describe what the Commission  
2 expected to address in that record. And, I'll quote from  
3 the secretarial letter: "The Commission has determined  
4 that it cannot conclude, based on the briefs, whether long  
5 distance service qualifies as a competitive wireline  
6 service under the statute. This question is more properly  
7 answered with the benefit of a full adjudicated process,  
8 including development of a factual record, and a thorough  
9 explanation of the meaning of the core term "competitive"  
10 as used in the statute. Such exploration will rely upon  
11 standard rules of statutory construction and a review of  
12 legislative history, as well as application of the  
13 Commission's own expertise as may be appropriate."

14 It's from that letter that parties,  
15 certainly, with these companies, proceeded to prepare  
16 their testimony and address the issues that the Commission  
17 had stated that it wished to consider. I know that, in  
18 the Consumer Advocate's motion, they argue that, since we  
19 claim that the statute is clear on its face, that we  
20 should not, applying regular rules of statutory  
21 construction, should not be delving into legislative  
22 history. However, other parties in the case have argued  
23 that it's not so clear, and argue at length about the  
24 intent. And, in fact, Dr. Johnson, the witness on behalf

{DT 07-027} (12-04-07/Day I)



[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 of Mr. Bailey, offers his own, in his testimony,  
2 substantial testimony about what the meaning of the  
3 statute is. He asked the quote -- asked the Commission in  
4 his testimony to adopt an approach that was taken with  
5 regard to a Virginia statute. So that, apparently,  
6 Mr. Bailey as well took the cue from the Commission in its  
7 secretarial letter that the testimony was to address this  
8 issue.

9                   Matters before the Commission tend to be  
10 more than he said/she said factual type matters. The  
11 Commission deals with law, the Commission deals with  
12 policy, and interpretation of law and application of  
13 policy. The formal rules of evidence don't apply to  
14 matters that are presented to the Commission. The  
15 Commission often indicates that the Commission will  
16 receive the evidence and will accord it the weight that it  
17 deserves.

18                   So, for all of these reasons, we believe  
19 that the motion to strike should not be granted. That the  
20 Commission should hear what's before it, having in mind  
21 that the Commission also has the benefit of a Settlement  
22 Agreement before it, in which the parties have come  
23 together and concluded that that Settlement Agreement  
24 addresses all of those concerns. At a minimum, in

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 evaluating the reasonableness of the Settlement, the  
2 Commission will be able to see the positions of the  
3 parties, kind of the extreme book ends, if you will, of  
4 what the positions were and how they have come together in  
5 the Settlement Agreement. We believe that's valuable  
6 evidence for the Commission and that it ought to be heard.  
7 Thank you.

8 CHAIRMAN GETZ: Is there any other party  
9 that objects to the OCA's motion to strike? Mr. Phillips.

10 MR. PHILLIPS: Mr. Chairman, Granite  
11 State Telephone also objects to the Office of Consumer  
12 Advocate's motion, and agrees with Mr. Coolbroth's  
13 argument. And, would add to that as well, that the  
14 testimony that was offered by Mr. Reed was really in  
15 response to testimony that was offered by Mr. Johnson.  
16 And, in our view, Mr. Johnson opened the door for Mr. Reed  
17 to rebut the statements that Mr. Johnson had made. And,  
18 Mr. Reed did so based on his own participation in the  
19 legislative debate process. He was clear that he had  
20 testified, he participated in the hearings. He was  
21 recounting essentially what he had seen himself. So, that  
22 makes it, at the very least, a mixed question of fact and  
23 law, which the Commission would have a very difficult time  
24 segregating for purposes of the OCA's motion.

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

2 And, so, for those reasons, as well as  
Mr. Coolbroth's reasons, we would ask that the OCA's  
motion be denied.

CHAIRMAN GETZ: Thank you. Well, I  
5 probably should have gone in a different order and allowed  
6 other parties who support the motion to go first. But are  
there other parties supporting the motion who would like  
8 to make a statement for the record? Mr. Linder, you  
9 already said you supported the motion. Is there something  
10 more?

11 MR. LINDER: Yes.

12 CHAIRMAN GETZ: I recognize, Mr.  
13 Coolbroth, you'll have the opportunity to be the last word  
14 on this issue.

15 MR. LINDER: And, I may have said this  
16 before, and I'm not certain, but we do think that  
17 arguments, with respect to statutory interpretation and  
18 arguments with respect to whether legislative history is  
19 even relevant, and, if so, how it does or does not support  
20 one's interpretation of the statute, are all legitimate  
21 items that could be brought forward before the Commission,  
22 except that the appropriate time and place for it, we  
23 believe, is in briefs. And, that that's where that  
24 belongs, not counsel debating with a factual witness, you

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 know, what principles of statutory construction should  
2 apply, how they should apply, how it should be  
3 interpreted, to what extent it's relevant, how much weight  
4 it should be given, I don't think that's really an  
5 appropriate subject of cross-examination. But -- And, so,  
6 we feel that it's more appropriate to have in legal  
7 argument in the briefs. And, we were going to suggest to  
8 the Commission, either today or tomorrow, that the  
9 Commission allow a short period of time for the filing of  
10 briefs following the closing of the factual record, so  
11 that the parties can have an opportunity to give their  
12 interpretation of the statute and how it should be  
13 applied, and what criteria should be utilized. And, it  
14 would help, as Mr. Coolbroth suggested, it would help  
15 address the issue raised in the Commission's July 13  
16 secretarial letter, that it is difficult to address  
17 important legal issues in a brief without a factual  
18 record. And, I think the parties were attempting to help  
19 the Commission in the filing of briefs prior to the  
20 hearings. And, so, we do believe that it's appropriate  
21 and it would be helpful, we think, to the Commission to  
22 have briefs. And, this would be one of the items that  
23 would be in the brief, rather than in the testimony of a  
24 witness.

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 CHAIRMAN GETZ: Is there anything  
2 further on this issue?

3 (No verbal response)

4 CHAIRMAN GETZ: Okay. Then, we'll take  
5 a brief recess to address the motion to strike. I don't  
6 know if further discussion would be helpful or -- with  
7 respect to other parts of the testimony or the areas that  
8 Mr. Linder intends to cross on, if there is some meeting  
9 of the minds on those issues, but, if there is further  
10 discussion to be had, please take the opportunity while we  
11 recess, and we'll be back shortly. Thank you.

12 (Recess taken at 2:11 p.m. and the  
13 hearing reconvened at 2:53 p.m.)

14 CHAIRMAN GETZ: Okay. We're prepared to  
15 rule on the Consumer Advocate's Motion to Strike, and note  
16 that actually the motion encompasses a range of issues.  
17 Some of the references in the rebuttal testimony appear to  
18 be legitimate responses and containing mixed questions of  
19 law and fact, some are more in the notion of -- in the  
20 nature of argument, but are similar to testimony that has  
21 been admitted in other proceedings. Some, however, may  
22 raise issues of relevance.

23 But, for the purposes of the orderly  
24 conduct of this proceeding, we're going to deny the Motion

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 to Strike. Note that we will give the testimony the  
2 weight it's due, and point out that there are certain  
3 assertions that appear to merit no weight whatsoever.  
4 And, examples of those issues go to what occurred at  
5 legislative hearings or assumptions about what legislators  
6 or individuals may have been thinking or assumed about  
7 various issues.

8 And, finally, we'll note that, in our  
9 deliberations in this proceeding, and in preparation of a  
10 final order, we may, of our own accord, strike certain  
11 portions of the testimony or of the record, which then  
12 leaves us to proceeding with Mr. Reed and the panel.

13 I had left, at the recess, whether there  
14 was other conversation between Mr. Coolbroth and  
15 Mr. Linder, with respect to proceeding today, or the other  
16 parties, in terms of focusing the cross-examination or the  
17 testimony. Is there anything to report on that issue,  
18 gentlemen?

19 MR. COOLBROTH: No, Mr. Chairman.  
20 Basically, as we understand it, the Staff and Consumer  
21 Advocate testimony is entirely also going to be offered  
22 for its truth. So, we think that, therefore, ours should  
23 be as well. Again, we think that it provides the  
24 Commission with a balance from which they can address the

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Settlement Agreement.

2 CHAIRMAN GETZ: And, I think we view it  
3 as useful in the context of a settlement that's not agreed  
4 to by all the parties.

5 So, is there anything that we need  
6 further to address? Ms. Ross.

7 MS. ROSS: Yes, Commissioners, just two  
8 procedural items. We need to stop around 4:30 tonight,  
9 because of some comments, if that would be all right.  
10 And, the parties have agreed to start at 9:00 tomorrow, if  
11 the Commission is available an hour earlier, to try to  
12 make sure that we can finish this hearing up tomorrow.

13 CMSR. BELOW: That's fine.

14 CHAIRMAN GETZ: That's amenable to the  
15 Bench.

16 MS. ROSS: We'll begin with Ms. Hatfield  
17 and Mr. Traum.

18 CHAIRMAN GETZ: Ms. Hatfield.

19 MS. HATFIELD: Thank you, Mr. Chairman.

20 BY MS. HATFIELD:

21 Q. Mr. Traum, have you testified before the Commission  
22 previously in your capacity as Assistant Consumer  
23 Advocate?

24 A. (Traum) Certainly, I've testified on behalf of the OCA

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 in numerous dockets involving gas, electric, water,  
2 and, certainly, telephone issues.

3 Q. And, did you file prefiled testimony in this docket?

4 A. (Traum) No, I did not. The purpose of my testimony  
5 today is to discuss the OCA's support for the  
6 Settlement Agreement entered into by the Companies,  
7 Staff, segTEL, and the OCA.

8 Q. And, did the OCA file prefiled testimony authored by  
9 Dr. Robert Loube in this case?

10 A. (Traum) Yes. Dr. Loube did file testimony, I believe,  
11 on October 12th, and Dr. Loube will be here tomorrow.

12 Q. And, Mr. Traum, did you work on behalf of the OCA on  
13 the Settlement Agreement that's been marked as "Exhibit  
14 6"?

15 A. (Traum) Yes, I did.

16 Q. Can you please discuss the OCA's support for the  
17 Settlement Agreement?

18 A. (Traum) Certainly. On balance, the OCA views this  
19 Settlement as providing protections to TDS's customers,  
20 while taking steps to foster the entry of competitors,  
21 and allowing TDS to move to an alternative form of  
22 regulation in light of the specific circumstances of  
23 this case.

24 Q. Mr. Traum, would you please deliver a summary for the

{DT 07-027} (12-04-07/Day I)



1 Commissioners of the Settlement Agreement that's been  
2 proposed.

3 A. (Traum) Yes. And, I'll be delivering this summary of  
4 the document, the Settlement Agreement between TDS,  
5 Staff, segTel, and the OCA, but I'll stay at the  
6 10,000-foot level. And, then, my co-panelists will be  
7 providing more specifics. This docket resulted from  
8 the four TDS companies' petitions under RSA 374:3-b to  
9 move to an alternative form of regulation. At one end  
10 of the spectrum was TDS and their alternative form of  
11 regulation plans, in which the Company claimed that it  
12 had met the requirements in the statute. At the other  
13 end of the spectrum was the OCA, Staff, The Way Home,  
14 and other intervenors, who, through legal briefs and  
15 prefiled testimony, claimed that competitive  
16 alternatives do not yet exist at least for basic  
17 service or POTS in all of the TDS territories, so the  
18 petition should be denied.

19 This settlement recognizes many of the  
20 issues raised by the parties, and endeavors to allow  
21 the TDS companies more flexibility to compete, while  
22 taking concrete steps to move the TDS franchise  
23 territories further along the line to competition  
24 consistent with the statute.

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1           The settlement has a few key aspects  
2           from the OCA's perspective. First, it includes  
3           important steps that should further open the TDS  
4           franchise territories to competition. The support of  
5           segTEL, the only CLEC in the proceeding, I believe is  
6           evidence of this important step. Second, it is  
7           recognized -- was recognized that the four TDS  
8           companies, Wilton, Hollis, MCT, and Kearsarge, have  
9           different levels of competition, and therefore require  
10          different treatment. Wilton and Hollis are both single  
11          exchange companies, and are likely to see more  
12          competition more quickly. For that reason, the  
13          Settlement allows TDS to begin pricing under the  
14          Alternate Reg. Plan after a one-year rate freeze for  
15          Wilton and a two-year rate freeze for Hollis. Those  
16          one- and two-year delays will give competitors  
17          additional time to take advantage of Items 1 and 2 of  
18          the Settlement, to get into those exchanges and begin  
19          offering additional competitive choices to customers.  
20          For the multi-exchange companies, Kearsarge and MCT,  
21          there is also an initial two-year rate freeze, after  
22          which any of their exchanges may go to alternative  
23          regulation pricing, after a showing of competition  
24          based upon a number of criteria or any of the number of

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 criteria listed in Item 6.2 of the Settlement.

2 Third, there were additional protections  
3 were incorporated in the Settlement for Lifeline  
4 customers. Namely, at least a four-year rate freeze  
5 kept at Verizon Lifeline rate levels, except for  
6 extraordinary items. In addition, TDS, The Way Home,  
7 the OCA, and Staff will work to improve Lifeline and  
8 Link-Up participation.

9 Next, the Settlement also clarified that  
10 any exogenous cost changes, with those specified in RSA  
11 374:3-b, and that there will be a reporting mechanism  
12 for any such changes, whether increases or decreases.  
13 There is also in the Settlement a 5 percent trigger for  
14 such a change in rate levels to occur.

15 In conclusion, I'll just add at this  
16 point that the OCA would like to thank the parties and  
17 Staff, both settling and non-settling, for their work  
18 in this case. We believe that this Settlement  
19 represents a fair compromise within the context of this  
20 case.

21 And, now I'll turn to my co-panelists.

22 BY MS. ROSS:

23 Q. I'm going to move now to -- I'm going to go first to  
24 Mr. Reed, of the TDS companies. And, I believe we've

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 already admitted your direct testimony. So, if you  
2 could begin by giving a little more information on the  
3 Settlement, that would be helpful.

4 A. (Reed) Thank you. I'm going to provide a summary of  
5 portions of the alternative regulation plans that were  
6 filed, Exhibit WTC-1P, MCT-1P, KTC-1P, and HTC-1P, with  
7 particular attention to the amendments resulting from  
8 the Settlement Agreement. We're in the process of  
9 preparing the final Plans incorporating the changes in  
10 the Settlement Agreement. And, we intend to have those  
11 filed by the conclusion of hearings tomorrow. So, this  
12 may be a little -- a little difficult to keep up with,  
13 we don't have a marked-up Plan or Plans for you to  
14 follow.

15 Section 1 of the Plan sets forth the  
16 goals of the four different Plans. The goals of the  
17 Plans have not changed, in fact, we believe they're  
18 enhanced by the Settlement. Section 2 of the Plan  
19 provides that the Plans continue in effect until  
20 terminated by the respective company or the Commission.  
21 The Settlement makes some wording changes to further  
22 clarify that point.

23 Sections 1 through 4 of the Settlement  
24 refer to Section 3 of the Plan, which was titled

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 "Regulation", I believe, titled "Regulation of the  
2 Company under the Plan". And, this relates to a very  
3 significant change resulting from the Settlement, the  
4 waiver of the rural exception under the TelAct.  
5 Specifically, the Companies have agreed not to contest  
6 the certification of CLECs in their service  
7 territories. The Companies have agreed to waive their  
8 rural exemption under Section 251(f)(1) of the Telecom  
9 Act. While the Settlement does not require wholesale  
10 tariffs, it does provide an expedited process for  
11 certain CLEC requests, namely for 251(a) and (b)  
12 interconnection for collocation and for resale. In  
13 these instances, there's an expedited window for  
14 commencement of the arbitration process, which should  
15 move things along. This expedited mechanism is  
16 optional. It does not replace the Telecom Act Section  
17 252 process, for CLECs that wish to avail themselves of  
18 the statutory process, including for the purchase of  
19 unbundled network elements.

20 The Companies have reserved their rights  
21 provided under 251(f)(2) of the Telecom Act to seek  
22 suspension or modification of Section 251 requirements.  
23 But any such requests would come before this  
24 Commission, and it could only be granted to the extent

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 and for the duration that the Company meets the test  
2 under that section.

3 Finally, the Settlement Agreement makes  
4 clear the Companies are not undertaking obligations  
5 under the TelAct that are applicable to the Bell  
6 operating companies.

7 And, with that, I'll turn to Staff.

8 Q. And, now, I'd like to turn to Ms. Gage. And, Ms. Gage,  
9 have you filed prefiled testimony in this case?

10 A. (Gage) Yes.

11 Q. And, have you testified before before the Commission?

12 A. (Gage) No.

13 Q. Ms. Gage, what I'd like to ask you to do is to continue  
14 moving through the terms of the Settlement, summarizing  
15 the critical terms to the Commission.

16 A. (Gage) I'm going to summarize Sections or Provisions 5,  
17 6, and 7. With regard to 5, "Wilton and Hollis  
18 Telephone Company Basic Service Rates": Wilton  
19 Telephone Company will not raise basic service rates  
20 for one year. Hollis Telephone Company will not raise  
21 basic service rates for two years. And, after that,  
22 rates will be subject to the Plan.

23 With regard to Provision 6, "Kearsarge  
24 and Merrimack County Telephone Company Basic Service

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Rates": Kearsarge and Merrimack County Telephone will  
2 not raise basic service rates for two years. After the  
3 two years, basic service rates will be permitted by  
4 exchange to increase according to the Plan when the  
5 Petitioners can show, on an exchange by exchange basis,  
6 that at least one of the tests in Section 6.2, which  
7 demonstrate an alternative that doesn't exist today is  
8 met. Those tests include (i) a non-affiliated wireline  
9 CLEC has collocated in the central office serving that  
10 exchange and is offering service; (ii) a non-affiliated  
11 cable telephone provider is certified to provide  
12 telephone service within the exchange and has  
13 facilities available to serve a majority of customers  
14 within that exchange; (iii) a non-affiliated cable  
15 provider is offering the functional equivalent to  
16 telephone service within the exchange and has  
17 facilities available to serve a majority of customers  
18 within that exchange; (iv) a non-affiliated CLEC is  
19 providing basic service to the exchange through resale,  
20 unbundled network elements, its own facilities or a  
21 combination thereof; or, (v) the affected Petitioner  
22 demonstrates to the Commission that wireless or  
23 non-affiliated broadband service is available to a  
24 majority of retail customers in the affected exchanges

{DT 07-027} (12-04-07/Day I)

1 and that such service is "competitive" within the  
2 meaning of RSA 374:3-b.

3 Following termination of the basic  
4 service rate freeze for an exchange, rate increases  
5 under the Plan 10 percent per year, for up to four --  
6 10 percent per year, for four years, up to the Verizon  
7 rate shall be permitted.

8 And, Provision 7, regarding "Lifeline  
9 Rates": Lifeline customers' basic service rates will  
10 not be raised for the first four years of the Plans in  
11 any exchange, and until one or more of the tests in  
12 Section 6.2 have been met in the affected exchange.  
13 After that, basic service rates will be allowed to  
14 increase under the Plan 10 percent, for four years, not  
15 to be higher than basic service rates for Lifeline  
16 customers charged by the largest ILEC in New Hampshire.

17 Q. Thank you. Turning now to Ms. Bailey, Ms. Bailey, have  
18 you filed prefiled testimony in this case?

19 A. (Bailey) No, I have not.

20 Q. Did you work on negotiating the terms of this  
21 Settlement Agreement?

22 A. (Bailey) Yes, I did.

23 Q. And, would you please summarize for the Commission the  
24 provisions dealing with the exogenous changes?



[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 A. (Bailey) Certainly. The statute allows the Plan to  
2 provide for rate adjustments, with PUC review and  
3 approval, to reflect changes in federal, state or local  
4 government taxes, mandates, rules, regulations or  
5 statutes. And, those kind of changes we refer to in  
6 shorthand as "exogenous changes". The original Plan,  
7 in Section 7.4, I believe, yes, proposed that the  
8 Commission would -- that the Company would file an  
9 exogenous rate increase -- may file a rate increase for  
10 an exogenous change, and, if the Commission didn't act  
11 in 30 days, they would go into effect automatically.  
12 But the statute doesn't address the process for  
13 reviewing exogenous changes, and the Company wanted to  
14 put into the Plan some guidelines for how it would be  
15 reviewed. So, they changed this paragraph, Section  
16 7.4, in the Plan, to say that, if they file a rate  
17 change, because of an exogenous change, the Commission  
18 would issue an order of notice in 30 days, and would  
19 have to decide whether they would approve it or not in  
20 five months. And, some of the things that they would  
21 review are specified, and Mr. Reed will go through  
22 exactly what the Company is proceeding that you review  
23 to consider exogenous changes.

24 The Settlement Agreement, though,

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 specifically excludes Staff from this provision,  
2 because we did not feel comfortable binding the  
3 Commission to any time frames in its reviews that  
4 aren't statutory requirements. So, that's why 8.2.2  
5 and 8.2.3 are in the Settlement Agreement. It just  
6 says that's for the Commission to decide. And, if you  
7 decide that you can go along with those guidelines,  
8 then you can approve the settlement as is and the Plan  
9 as is. And, if you decide that you can't live with  
10 that, then the Company has the right, under another  
11 provision in the Settlement, to decide whether they  
12 want to continue with the Plan or get out of the  
13 Settlement Agreement.

14 Q. Thank you. And, now turning back to Mr. Reed, I think  
15 the final piece of the summary will deal with just the  
16 specific changes that the Settlement Agreement affects  
17 in the Plans. And, again, as I understand it,  
18 Mr. Reed, the four companies' Plans are identical, is  
19 that correct?

20 A. (Reed) No, not quite. Oh, yes, they are. I'm sorry.

21 Q. The original Plans, as filed for each company, were the  
22 same?

23 A. (Reed) Yes. As filed, yes. I'm sorry.

24 Q. Okay.

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 A. (Reed) This is -- I apologize again, we hope to have  
2 the final amended Plans filed tomorrow. So, this will  
3 reserve -- you could refer, if you would like to follow  
4 along, to one of the exhibits. And, I'm just going to  
5 go through some of these earlier discussions that I  
6 summarized. The text of each Plan shall be amended to:  
7 It would amend Section 2.1 of the Plan, that the Plan  
8 will continue until terminated in accordance with  
9 Section 2.2 or 2.3. Amend Section 2.3 by deleting the  
10 words "no longer" and substituting the words "does  
11 not". Delete Section 3.6. That was replaced by the  
12 discussions I mentioned about waiving the rural  
13 exemption.

14 Turning to Section 7.1, the exogenous  
15 change, change -- the "2 "percent will change to  
16 "5 "percent. Delete Section 7.02. And, there's a  
17 footnote in the Settlement Agreement that will explain  
18 "Exogenous events covered by Section 7 of the Plans  
19 shall be limited to those specified in RSA 374:3-b,  
20 III(b)."

21 In Section 7.5, the clause "The  
22 Commission shall approve the change in rates to reflect  
23 an exogenous change if the Commission finds that" shall  
24 be deleted and replaced with the clause "In evaluating

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 a change in rates to reflect an exogenous change, the  
2 Commission shall consider whether". And, then, again,  
3 the 7.5.1 and .2 spells that out in more detail.  
4 There's one change in 7.5.3, "The proposed rate changes  
5 produce revenue covering only the financial impact of  
6 all relevant exogenous changes."

7 And, finally, the Petitioners and Staff  
8 shall determine additional information to be provided  
9 in reports of Petitioners to the Commission to identify  
10 exogenous changes and the impact thereof. We're not  
11 quite sure the right vehicle to be able to identify and  
12 report these, but we will work on that with the Staff.

13 Q. Thank you. And, now turning to Ms. Bailey, could you  
14 describe to the Commission why the Staff supports the  
15 Settlement Agreement, as negotiated?

16 A. (Bailey) I can do that, but Mr. Traum was going to go  
17 through the remainder of the provisions. Do you want  
18 to do that first?

19 Q. Oh, I'm sorry. Excuse me, there are two, two more to  
20 pick up. Go ahead, Mr. Traum.

21 A. (Traum) We just haven't gotten our act together yet;  
22 next time. On Item 9, and it simply puts in writing  
23 the objective of increasing participation in the  
24 Lifeline and Link-Up Programs for eligible customers.

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 And, in that, the Petitioners have agreed to work with  
2 the OCA, New Hampshire Legal Assistance, and Staff in  
3 that regard.

4 On Item 10, it simply states "As  
5 provided in Section 4.3 of the Plans, the Petitioners  
6 will not raise intraLATA access rates without prior  
7 approval of the Commission."

8 Item 11 indicates that, "In all other  
9 respects, the Plans will operate in accordance with  
10 their terms." And, when I say that, I should also add,  
11 at the very end, Item 12.7 indicates that "In the event  
12 of a conflict between the terms of the Agreement and  
13 the terms of the Plans," basically, if we've missed  
14 something in the amendments to the Plans, the terms of  
15 the Agreement are what will govern.

16 Jumping back to 12.1, really, the next  
17 several items in 12 are more or less the regular items  
18 that you'd expect in a settlement agreement. That all  
19 the parties agree to support the agreement in whole.  
20 And, we ask that the Commission adopt the terms in  
21 their entirety, without modification. And, that the  
22 Settlement is not deemed as limiting the Commission's  
23 exercise of its authority.

24 12.4: "Capitalized items used herein

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 without definition shall have the meaning ascribed to  
2 them in the Agreement. Section headings used herein  
3 are for convenience only and shall have no legal  
4 effect."

5 And, finally, in 12.6, if the Commission  
6 does not adopt the Agreement in its entirety without  
7 modification, any signatory has the right to terminate  
8 the Agreement.

9 And, so, I think that completes the  
10 summary of the Settlement Agreement. Now, I'll turn it  
11 back to you.

12 Q. Thank you. Now, Ms. Bailey, if you could explain why  
13 Staff has agreed to enter into the Settlement Agreement  
14 as described?

15 A. (Bailey) Sure. The statute 374:3-b, III, outlines the  
16 standards for the finding that the Commission has to  
17 make in order to approve a plan. So, I'll go through  
18 each one of those and just tell you which section of  
19 the Plan or the Settlement Agreement satisfies each of  
20 those.

21 I believe that Item (a), III(a), is  
22 achieved by Section 6 of the Stipulation. That Item  
23 (b) is achieved by the -- by the Plan in section -- I  
24 apologize, I had this and I misplaced it. There's a

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 provision in the Plan that the Company will offer basic  
2 service. Oh, Section 3.2 in the Plans, "During the  
3 term of the Plan, the Company shall continue to provide  
4 service as the carrier of last resort providing basic  
5 service as defined in 402.05 and 412.01. So, they will  
6 continue to provide a stand-alone basic service and the  
7 rate will be as described in the Settlement Agreement.  
8 The exogenous changes I've already covered, that's  
9 Section 8 in the Settlement Agreement, and that's the  
10 second part of (b).

11 (c) in the statute, "The plan promotes  
12 the offering of innovative telecommunications services  
13 in the state." I believe that that's covered by the  
14 first two provisions in the Settlement Agreement. The  
15 Company agrees to give up their rural exemption and  
16 they won't contest any request for authorization in  
17 their service territory, and they're also willing to  
18 negotiate interconnection agreements for resale and  
19 collocation to get CLECs started quickly. And, then,  
20 they will negotiate interconnection agreements that  
21 offer unbundled network elements during the regular  
22 nine month course required by the Telecom Act. So, I  
23 think CLECs will be able to -- wireline CLECs will be  
24 able to compete in TDS's territory, which will promote

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 the offering of innovative services.

2 "The Plan meets intercarrier service  
3 obligations". They have agreed to negotiate  
4 interconnection agreements. And, Item 3.4 in the Plan  
5 states that they will "meet their intercarrier  
6 obligations", and also the provision that says that  
7 they won't raise access rates without Commission  
8 approval in the Settlement Agreement, which refers to  
9 the Plan, also takes care of that, that obligation.

10 "The plan preserves universal access to  
11 affordable basic telephone service". I think that the  
12 agreement about promoting Lifeline, and the fact that  
13 there will be alternatives to customers, and the basic  
14 freeze on rates for Lifeline customers for four years,  
15 and then a 10 percent increase to those Lifeline rates  
16 for the next four years. And, in most cases, customers  
17 in the TDS exchanges -- Lifeline customers in the TDS  
18 exchanges aren't likely to pay the Verizon Lifeline  
19 rate until about eight years from now, in most cases.  
20 So, we think that that is achieved.

21 And, then, finally, the last provision  
22 is the plan provides that, if the ILEC is not meeting  
23 the conditions in the law, that the plan can be  
24 terminated. And, that is covered by Section 2, "Term



[WITNESS PANEL: Reed|Bailey|Gage|Traum]

and Termination" in the Plan itself. So, I believe all those items have been met. And, I think that this is a very reasonable compromise to all the issues, and all the issues are addressed. And, Staff believes it's in the public interest and supports it.

Q. Thank you. And, finally, Mr. Reed, I would ask you to explain why the Company believes that this is an appropriate Settlement, and why the Company supports it?

A. (Reed) Thank you. Before I do that, I just want to clarify one point. I hope that we didn't mislead you, just the way we're reading things. This does not anticipate a rate increase. None of this Plan anticipates a rate increase. It sets limits for rate increases. So, as it stands, we -- none of us have agreed to do a rate increase or that there will be a rate increase, only that there would be these 10 percent limits and the time frames. So, I just wanted to clarify that point.

As far as the Company is concerned, you know, clearly, in filing our petitions, we feel very strongly we meet the statute that the Legislature set out to recognize the competitive environment. After long discussions and hours and hours of clarifying, we

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 think that this settlement offer reaches all of the  
2 parties' concerns. I think it was a long, difficult  
3 process, but I think we all understand a lot better,  
4 and there was a lot of effort on everyone's part to  
5 reach this. But the Company supports this as it's a  
6 benefit for the Company, it puts us on a more level  
7 playing field. There's protections for the consumers  
8 in here built in. Additional protections for those  
9 lower income consumers on the Lifeline. And, as you  
10 can see from sections of the Plan, we're far from being  
11 deregulated. There's a number of reports we will  
12 continue to file.

13 And, that's my last point. This statute  
14 says that we would be regulated, I forget the wording  
15 exactly, like a CLEC. But we found, in a careful  
16 review of the PUC rules, that there is CLEC and there  
17 is ILEC, but there is no ILEC operating as a CLEC. So,  
18 what we presented or included in the Plan is really a  
19 hybrid. So, there's actually some continued ILEC  
20 reporting even under this statute. So, with the  
21 reporting, ongoing reporting to the Commission  
22 regarding service quality standards, investment, and so  
23 on, that the Commission will be able to oversee this  
24 going forward. Thank you.

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 CHAIRMAN GETZ: Ms. Hatfield.

2 MS. HATFIELD: Thank you, Mr. Chairman.

3 BY MS. HATFIELD:

4 Q. Mr. Traum, I wanted to just clarify something for the  
5 record. In your earlier statement, you referred to a  
6 party "The Way Home", and I believe that may have been  
an error. Can you clarify the party that Legal  
8 Assistance is representing in this case?

9 A. (Traum) That's correct. It's, I believe, Bailey.

10 MS. HATFIELD: Thank you.

11 MS. ROSS: Thank you. I believe these  
12 witnesses are available for cross-examination on the  
13 Settlement.

14 CHAIRMAN GETZ: Well, I'm presuming that  
15 the attorneys for the members of the panel do not have  
16 questions for other members of the panel, is that correct?

17 MR. COOLBROTH: No questions, Mr.  
18 Chairman.

19 CHAIRMAN GETZ: I guess, then, we would  
20 turn to Ms. Geiger, questions for the panel?

21 MS. GEIGER: SegTEL has no questions,  
22 Mr. Chairman.

23 CHAIRMAN GETZ: And, Mr. Abbott?

24 MR. ABBOTT: No questions.

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 CHAIRMAN GETZ: Mr. Phillips?

2 MR. PHILLIPS: No questions,

3 Mr. Chairman.

4 CHAIRMAN GETZ: Mr. Linder?

5 MR. LINDER: Thank you, Mr. Chairman. I  
6 do have questions.

7 **CROSS-EXAMINATION**

8 BY MR. LINDER:

9 Q. Good afternoon, members of the panel. I would like to  
10 direct the first question to Ms. Gage please. And, you  
11 talked about Sections or Paragraphs, actually, 5, 6 and  
12 7 of the Settlement Agreement. I understand that  
13 correctly?

14 A. (Gage) Yes.

15 Q. Okay. And, Paragraph 5 deals with rates for Wilton and  
16 Hollis, is that correct?

17 A. (Gage) That's correct.

18 Q. And, then, Paragraph 6 deals with rates for Kearsarge  
19 and Merrimack, is that correct?

20 A. (Gage) That's correct.

21 Q. And, then, 7 deals with Lifeline rates, is that  
22 correct?

23 A. (Gage) Yes.

24 Q. Okay. So, looking at Paragraph 6, Kearsarge and

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Merrimack, following the two-year rate freeze in  
2 Section 6.1, on Page 4 of the Settlement Agreement,  
3 when the rate freeze period expires, basic services --  
4 basic service rates will be permitted to increase for a  
5 particular exchange when the Petitioners can show that  
6 at least one of the tests set forth in Section 6.2 have  
7 been met for that exchange, is that right? Do I  
8 understand that correctly?

9 A. (Gage) Yes.

10 Q. Okay.

11 A. (Bailey) Can I just add to that?

12 Q. Certainly.

13 A. (Bailey) I'd just like to point out that the rate  
14 freeze never expires if the test is not met.

15 Q. Right. And -- Thank you. And, that's exactly what I  
16 wanted to get to, Ms. Gage. As I understand, as I read  
17 Section 6.2, it starts on the bottom of Page 4 of the  
18 Settlement Agreement, and goes over to Page 5 of the  
19 Settlement Agreement, to about the middle of the page,  
20 there appear to be five alternative tests, which, if  
21 met, would then, for a particular exchange, would then  
22 permit the rates to increase. Is that your  
23 understanding? There's five tests?

24 A. (Gage) There are five tests, and only one of them needs

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 to be met. But, yes, that's my understanding.

2 Q. Right. So, only one test, only -- any one of the five?

3 A. (Gage) Correct.

4 Q. Right. Okay. Not all of them. Okay. So, as I look  
5 at, and please correct me if I'm wrong, but, as I look  
6 at the first four tests, which are (i) through (iv),  
7 for Kearsarge or Merrimack, the test can be met without  
8 a hearing before the Commission to demonstrate and to  
9 prove to the Commission that the test has been met,  
10 with respect to (i) through (iv). Am I reading that  
11 correctly?

12 A. (Gage) Yes.

13 Q. Okay.

14 A. (Bailey) I believe that the Company would have to  
15 provide some evidence that the test had been met, but  
16 there wouldn't be an adjudicative proceeding over it,  
17 unless, I suppose, if we had some reason to disagree  
18 with the fact that the test had been met, we could  
19 raise that issue with the Commission at that time.  
20 But, you know, the first four tests all have to do with  
21 a wireline provider, and they would probably tell us  
22 which wireline provider was providing the service, and  
23 we would call them and verify that.

24 A. (Reed) If I could -- And, could I just add something?

{DT 07-027} (12-04-07/Day I)

1 Q. You certainly may.

2 A. (Reed) In part of our discussion process, we found that  
3 there actually is a process that it's almost an  
4 automatic, for example, if a CLEC is to provide or  
5 operate under one of these, there would be an  
6 interconnection agreement, which would be filed with  
7 the Commission by either TDS or the CLEC, or jointly.  
8 Same with a cable company, should there be a cable  
9 company providing telephone service, and they need an  
10 interconnection agreement with us, then that would be  
11 filed. So, there would, in effect, be a document  
12 filed. And, we felt that that was a very good way to  
13 track this.

14 Q. So, under (iv), if an unaffiliated CLEC is providing  
15 basic service through resale or unbundled network  
16 elements or its own facilities or a combination  
17 thereof, some sort of a document would be filed with  
18 the Commission indicating that that has taken place?

19 A. (Reed) There would be a resale tariff, and it would be,  
20 if there were unbundled network elements, it would be,  
21 I believe this is a 251(c) requirement, I'm stretching  
22 on that, but there would be an agreement of some kind,  
23 a tariff in place that they would be buying under.  
24 That, again, would be filed with the Commission.

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Q. (Bailey) The CLEC would file the tariff.

2 A. (Reed) The CLEC, yes. I'm sorry.

3 A. (Bailey) The rate sheet.

4 A. (Reed) Yes.

5 A. (Bailey) And, the CLEC and the ILEC would also file an  
6 interconnection agreement that's spelled out each of  
7 those provisions, if they were all applicable. And, so  
8 -- And, the CLEC would have to be authorized in that  
9 exchange. So, it's possible that a CLEC could request  
10 authorization for the entire TDS footprint, and they  
11 would have one interconnection for the entire TDS  
12 footprint. And, we would have to verify that the CLEC  
13 was providing service. But we have reports from CLECs  
14 that are filed annually that show where they are  
15 providing service. And, they also have to get  
16 telephone numbers. And, we can tell -- they have to  
17 file a report with us when they activate the first  
18 telephone number in each exchange. So, we will know  
19 when -- if a CLEC is offering service in those  
20 exchanges.

21 Q. Okay. With respect to (i), where a non-affiliated  
22 wireless CLEC has collocated in the central office,  
23 that also requires that they be offering service?

24 A. (Bailey) Well, number (i) doesn't say anything about

{DT 07-027} (12-04-07/Day I)



[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 "wireless". It says "wireline".

2 Q. I'm sorry, wireline.

3 A. (Bailey) So, a non-affiliated wireline CLEC collocated  
4 and offering service. So, it takes a little bit of  
5 effort to get collocated. And, the first thing that  
6 would happen would be they would have to get an  
7 interconnection agreement with TDS. And, then, they  
8 would have to build the collocation cage. And, they  
9 would have -- And, so, we would know, you know, that it  
10 was moving by the interconnection agreement. And,  
11 then, in order to provide service under that scenario,  
12 they would also have to get telephone numbers. So, we  
13 are well informed when a CLEC requests telephone  
14 numbers in every single exchange. So, yes, we would  
15 know.

16 Q. And, would they have to be actually providing service  
17 or would the service just have to be available?

18 A. (Bailey) It says that they're "offering service".

19 Q. Okay. It doesn't say that with respect to (ii), (iii)  
20 and (iv), does it? (ii), (iii) and (iv) seem to be  
21 more of an availability, as opposed to providing, or do  
22 I misread (ii), (iii) and (iv)?

23 A. (Gage) (iii) says "is offering".

24 Q. I'm sorry?

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 A. (Gage) (iii) says "is offering". "A non-affiliated  
2 cable provider is offering".

3 Q. Okay.

4 A. (Bailey) And, I believe, you know, the intent is that  
5 they are offering service. If a cable provider is  
6 certified to provide telephone service, and has the  
7 facilities capable of providing it, you know, the  
8 example that we had in mind in that provision was, in  
9 the Wilton exchange territory, Comcast has facilities  
10 pretty much throughout the majority of the Wilton  
11 exchange. And, the barrier to Comcast's entry was, I  
12 believe, was the rural exemption and the fear that they  
13 would have a regulatory battle on their hands if they  
14 wanted to expand their franchise territory. There's no  
15 doubt in my mind that Comcast wants to serve customers.  
16 And, where they have the facilities to do it, absent  
17 those barriers to entry, they will do it. So, although  
18 it doesn't say that they have to be providing service,  
19 I really believe that they will be providing service.  
20 And, so, I think that was the intent.

21 Q. Am I correct that today they're not providing voice  
22 service?

23 A. (Bailey) You are correct, because they're not  
24 authorized.

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Q. Okay.

2 A. (Bailey) And, then, did you ask for in number (iv)?  
3 Because, in number (iv), it says they are "providing  
4 basic service".

5 Q. Right. With respect to number (v), Ms. Gage, the  
6 affected Petitioner has to "demonstrate to the  
7 Commission", does that contemplate a hearing or is that  
8 demonstrated to the Commission Staff? It's not --

9 A. (Gage) Yes. Actually, well, the Commission, but, yes,  
10 --

11 Q. Okay.

12 A. (Gage) -- would be the answer to your initial question.

13 Q. So, you're -- okay.

14 A. (Bailey) I think it could, Mr. Linder.

15 A. (Gage) Yes.

16 A. (Bailey) I think, basically, (v) is a provision that  
17 would allow the Company to make a filing like they made  
18 in this case, and we would take it from there. So,  
19 it's likely that it would require a hearing.

20 Q. Okay.

21 A. (Traum) I'll just pipe in and say I would also envision  
22 that a filing under number (v) would end up going to a  
23 hearing.

24 Q. The language in number (v), when it says "demonstrates

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 to the Commission that wireless or non-affiliated  
2 broadband service is available to the majority of  
3 retail customers in the affected exchanges and that  
4 such service is "competitive" within the meaning of RSA  
5 374:3-b." Do you see that, Ms. Gage?

6 A. (Gage) I see it.

7 Q. Okay. Can you point to me where "competitive", the  
8 word "competitive" is defined, either in the Settlement  
9 Agreement or in the statute, RSA 374:3-b?

10 A. (Gage) It is not defined there. I think that part of  
11 (v) is that this is a -- I guess what we've left as  
12 something that, should it come up, Provision (v),  
13 should it come up, that we would reinstitute or  
14 instigate or whatever this exact discussion. And,  
15 again, the Company would resubmit the same concerns.

16 Q. So, we would be basically postponing for another day  
17 the original issue that was raised in this case, i.e.  
18 whether competitive wireline, wireless or broadband  
19 service is available to the majority of retail  
20 customers in each exchange. Is that basically what  
21 this does?

22 A. (Bailey) Only in the exchanges that haven't met the  
23 tests.

24 A. (Gage) Of one section, the parts (i) through (iv).

{DT 07-027} (12-04-07/Day I)

1 Q. Okay. So, the Commission is eventually going, if,  
2 under test number (v), the Commission is eventually  
3 going to have to decide what "competitive" means, is  
4 that --

5 A. (Bailey) Not necessarily.

6 Q. No? Why not?

7 A. (Bailey) Because they could meet the test under (i),  
8 (ii), (iii) or (iv).

9 Q. No, I said, if they come in under test number (v), then  
10 the Commission would have to determine some way what  
11 "competitive" means?

12 A. (Bailey) What "competitive" means for the services that  
13 the Company is claiming are competitive in that case  
14 for that exchange.

15 Q. So, the answer is "yes", for those services?

16 A. (Bailey) For those services in that exchange, if they  
17 ever make such a filing, yes.

18 Q. Right. The Commission will have to make a decision on  
19 "competitive"?

20 A. (Bailey) Whether those services are competitive.

21 Q. Okay.

22 A. (Traum) Well, I would just add to that, that, again,  
23 there may be a settlement, so the Commission may not  
24 have to decide, if that's the case.

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Q. Now, as I understand it, the Plan and the Settlement  
2 Agreement, and I guess Mr. Traum would be -- might be a  
3 good person to respond to this, the Plan and the  
4 Settlement Agreement allow, tell me if I'm correct,  
5 allow rates to exceed the 10 percent per year cap if  
6 there is an exogenous event that results in a increase?  
7 In other words, the 10 percent cap does not include  
8 exogenous events. Do I understand that correctly?

9 A. (Traum) That's true. I might quibble about, you know,  
10 your wording for exogenous, I mean, there is a  
11 definition and there is a 5 percent threshold. But, if  
12 the Commission determines it's appropriate to change  
13 rates for exogenous factors up or down, that's in  
14 addition to the 10 percent.

15 Q. Okay. Thank you for that clarification. And, tell me  
16 if I'm missing something in the Plan, but I don't see  
17 anything in the Plan or, actually, in the Settlement  
18 Agreement that prohibits rates from actually exceeding  
19 Verizon rates, if there's an exogenous event that  
20 exceeds the 5 percent cap that you just referred to?

21 A. (Traum) That's correct.

22 Q. Okay.

23 A. (Bailey) And, the statute, I think, provides for that  
24 possibility, at III(b).

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Q. Okay. I don't recall who talked about Section 4 of the  
2 Plan, but I would direct your attention to Page 3 of  
3 the original Plan, and I have to confess I don't recall  
4 the exhibit number. But it's on Page 3, and it would  
5 be Section 4.1.3. And, I don't recall if this is one  
6 of the sections that have been or will be amended or  
7 revised, but let me just refer to the original, and  
8 someone can correct me if it's been revised. It's my  
9 understanding, as I read this, that the Company can  
10 bundle any basic retail service with any other  
11 regulated or nonregulated service, and then that will  
12 be priced and regulated -- that bundle would then be  
13 priced and regulated as a nonregulated retail service.  
14 Am I understanding that correctly?

15 A. (Bailey) It would -- I'm not sure it would be  
16 nonregulated. We would not look at -- We would not do  
17 a cost analysis of whether the same cost -- we would  
18 not do a tariff review the way we would under the  
19 obligations that the ILEC would have today. But they  
20 would put the bundle on a rate sheet.

21 Q. Okay.

22 A. (Bailey) And, just like other CLECs.

23 Q. Well, I'm reading from what I think is the original  
24 Merrimack County Telephone Company Plan, which was

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

2 filed with the petition. And, it's Page 3, 4.1.3, and  
that's why I'm wondering if I'm understanding it  
correctly. As I read it, it says "The Company may  
bundle any Basic Retail Service with any other  
5 regulated or unregulated services", and then "which  
6 then will be priced and regulated as a Non-Basic Retail  
7 Service", meaning that -- did I read that correctly?  
8 Do I understand that correctly.

9 A. (Bailey) Yes.

10 Q. Okay. All right. So, my question is, going back then  
11 to Section -- Paragraph 6.2 of the Settlement  
12 Agreement, the section with the five tests, five  
13 alternative tests for Merrimack and Kearsarge, does the  
14 Settlement Agreement require a demonstration of  
15 competition for stand-alone basic local exchange  
16 service as a condition of increasing rates under any of  
17 the five tests of Section 6.2?

18 A. (Bailey) I think, if I understand your question  
19 correctly, let me send it back to you, --

20 Q. Okay.

21 A. (Bailey) -- you're asking whether the tests in  
22 Section 6.2 require that, for example, in number (i), a  
23 non-affiliated wireline CLEC has collocated in the  
24 central office and is offering service, whether that



[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 requires that it's offering stand-alone service?

2 Q. Correct.

3 A. (Bailey) No, it doesn't.

4 Q. Okay. And, your answer would apply to each of the five  
5 tests?

6 A. (Bailey) Yes.

7 Q. Okay. So, the showing of competition that would result  
8 from meeting any of the five tests would be for basic  
9 local exchange service, but it could be basic local  
10 exchange service as part of a bundled service, as  
11 opposed to a stand-alone?

12 A. (Bailey) Yes.

13 Q. Is that correct?

14 A. (Bailey) That's correct.

15 Q. Okay.

16 A. (Bailey) And, I think, you know, we believe that,  
17 especially with the tests in (i) through (iv), those  
18 are all tests to make a demonstration that there's a  
19 wireline alternative. And, we believe that a wireline  
20 alternative is a much closer substitute to basic local  
21 exchange service than wireless or broadband  
22 alternatives. So, we were willing to compromise on  
23 that.

24 Q. The wireline applies to the test number (i)?

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 A. (Bailey) (ii), (iii) and (iv).

2 Q. (ii) is "a non-affiliated cable telephone provider" and  
3 (iii) is "a non-affiliated cable provider", and (iv) is  
4 "a non-affiliated CLEC"?

5 A. (Bailey) Yes.

6 Q. And, you're equating them with wireline?

7 A. (Bailey) I'm equating all of those with wireline.

8 Q. I see. Okay. Thank you.

9 A. (Bailey) And, you know, there's a protection for  
10 somebody who doesn't want the bundled wireline service  
11 of, say, a Comcast, where you get your local service  
12 bundled with your long distance service, and that's  
13 your only alternative, we believe that that is a  
14 substitute for many customers of TDS wireline basic  
15 service. But, for customers who aren't interested in  
16 that, they're protected by the rate freezes. And, for  
17 low income customers, they're even further protected by  
18 the Lifeline requirements of the Plan.

19 Q. Can you, Mr. Traum, perhaps address, following up that  
20 previous question, whether and how the Settlement  
21 Agreement and Plan address safeguards against pressure  
22 on the Company to increase basic local exchange rates,  
23 including stand-alone basic local exchange rates, as a  
24 result of the pressure on the Company to provide

{DT 07-027} (12-04-07/Day I)

1 competitively priced bundled services when competition  
2 is present?

3 A. (Traum) For competitively priced bundled services?

4 Q. Right. Now, assuming the provider comes in and is  
5 offering bundles, but not stand-alone, and the Company,  
6 one of the things it would like to be able to do, my  
7 understanding is, it would like the flexibility to be  
8 able to offer bundled services, which could include  
9 local, okay? Now, if there's competition, the Company  
10 is going to want to be able to, I assume, for the  
11 purposes of this question, have a competitively priced  
12 bundle, so that it doesn't lose customers to the  
13 provider. You following me so far?

14 A. (Traum) So far, yes.

15 Q. Okay. So, keeping a competitively bundled service at  
16 the lowest possible price, would you agree that that  
17 could increase the pressure on the Company to raise  
18 rates for basic local exchange, including stand-alone  
19 basic local exchange?

20 A. (Traum) No, because they're not under traditional rate  
21 of return regulation anymore.

22 Q. So, rate of return regulation might constrain the  
23 ability to raise basic local rates, is that what you're  
24 saying? But, under an alternative form of regulation,

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1       that constraint isn't there, other than what the market  
2       might provide?

3   A.   (Traum) No, I think I'm saying the opposite.

4                   MS. ROSS: Alan, that was a very long  
5       question. Maybe you could try to shorten it up a little.

6                   MR. LINDER: Sure. Sure.

7                   WITNESS REED: Could I offer to help a  
8       little bit. I think I followed it.

9   BY MR. LINDER:

10   Q.   Well, let me try to clarify it for Mr. Traum. Because,  
11       under an alternative form of regulation, the market is  
12       the substitute for traditional rate of return  
13       regulation, is that correct?

14   A.   (Traum) In theory, that's certainly the case.

15   Q.   Okay.

16   A.   (Traum) And, in this Settlement Agreement, we've got  
17       the various 10 percent limitations, plus the exogenous  
18       issues.

19   Q.   Okay.

20   A.   (Traum) There's additional protection.

21   Q.   Okay. So, my question is, up to the rate cap of the  
22       10 percent, would it not be likely that the incentive  
23       to increase rates quicker up to the 10 percent would be  
24       a result -- could be the result of the efforts to

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 provide the lowest possible competitively priced  
2 bundled service? In other words -- do you understand  
3 the question now or --

4 A. (Traum) Yes.

5 Q. Okay.

6 A. (Traum) I think I understand the question.

7 Q. Thank you for your patience.

8 A. (Traum) I wasn't grasping it. I think, even today,  
9 because of Commission actions, if the Company wanted to  
10 competitively price bundles, they can make that  
11 request. And, as long as it is in excess of the cost  
12 to provide the service, the Commission has very quickly  
13 approved those type of rates. So, I don't -- I think  
14 this may, you know, expedite a little bit the time for  
15 the Company to roll those kind of price offerings out.  
16 In terms of whether they would see a revenue hit  
17 because of it and seek to increase rates within the  
18 10 percent cap or under traditional rate of return  
19 regulation, it might work out to be the same concept in  
20 either case.

21 Q. Okay. Let me ask you a question with respect to the  
22 Section 7 of the Settlement Agreement. I don't know if  
23 that's Ms. Gage's or Mr. Traum wants to address it.  
24 But, under Section 7, which is the period of the

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 four-year rate freeze for Lifeline customers, at the  
2 expiration of that period, it's my understanding that  
3 those rates can be increased up to the 10 percent  
4 maximum, if competition is present in a particular  
5 exchange. Is that -- Am I understanding that  
6 correctly? It's on an exchange by exchange basis for  
7 Lifeline customers? Yes?

8 A. (Gage) Yes.

9 Q. Okay. Thank you.

10 A. (Traum) The one thing I was hesitating on, and I think  
11 it's worth just clarifying for the Commission's sake,  
12 is that Item 8.1, relating to exogenous changes, that  
13 those exogenous changes affect even during the rate  
14 freeze period.

15 Q. Okay. I was going to ask for clarification on that, so  
16 thank you.

17 A. (Bailey) Can I also add to that answer?

18 Q. Sure. Please.

19 A. (Bailey) The TDS Lifeline rates today, for Wilton,  
20 which is the lowest rate, range between \$4.97, that's  
21 the Lifeline rate in Wilton, and the highest Lifeline  
22 rate today is in Boscawen at \$12.64. And, that's  
23 equivalent to the Verizon rate, because a number of  
24 years ago the Boscawen customers voted to increase

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1       their rates to the Verizon rate so that they could  
2       include Concord in their local calling area. So,  
3       Boscawen is a little bit of an outlier because they  
4       already are at the Verizon rate. And, then, Hollis is  
5       also close to the Verizon rate. So, the range of TDS  
6       Lifeline rates is between \$5.00 and \$12.00, rounded  
7       off. Those rates are frozen for four years under this  
8       Plan. So, Lifeline customers will pay those rates for  
9       the next four years. After that, TDS can only increase  
10      those Lifeline rates by 10 percent for each one of the  
11      next four years. And, then, in the fifth year, so nine  
12      years from now, they'll go to the Verizon Lifeline  
13      rate, if they have met the test by exchange. And, the  
14      Verizon Lifeline rates right now are between \$11.48 and  
15      \$13.92. So, that's the order of magnitude that we're  
16      talking about.

17   Q.   And, again, the competition to be present in a  
18       particular exchange for the Lifeline customers, the  
19       test -- one of those five tests would have to be met?

20   A.   (Bailey) Yes, in order to increase the Lifeline rate by  
21       10 percent in the fifth year of the Plan.

22   Q.   And, again, the competition could be for a bundled  
23       service, as opposed to a stand-alone basic local  
24       exchange?

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 A. (Bailey) Yes.

2 Q. Is that right? Yes. Okay. Now, the Paragraph 9 of  
3 the Settlement Agreement that Mr. Traum referred to,  
4 with respect to the Company agreeing to work with the  
5 OCA and Legal Assistance and Staff to improve the  
6 dissemination of information regarding the Lifeline and  
7 Link-Up Programs, to increase participation in the  
8 program, Mr. Traum, unless I'm missing it, it doesn't  
9 require the Company to also work directly with the  
10 Community Action Program, is that correct?

11 A. (Traum) It does not. But, in terms of working with the  
12 OCA, Legal Assistance, and Staff, we may insist that  
13 Community Action Programs be brought into it in one  
14 fashion or another.

15 Q. The Community Action Programs, tell me if my  
16 understanding is correct, they're the nonprofit  
17 anti-poverty programs that, among other things, they  
18 administer and provide process applications for Fuel  
19 Assistance?

20 A. (Traum) That's correct.

21 Q. And, Weatherization, Electric Assistance Discount  
22 Program?

23 A. (Traum) Yes, and the gas.

24 Q. And, gas, and energy efficiency?

{DT 07-027} (12-04-07/Day I)



[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 A. (Traum) Correct. For low income customers.

2 Q. So, they have a built-in constituency to which the  
3 Lifeline and Link-Up Programs could be marketed, is  
4 that correct?

5 A. (Traum) Yes, they certainly seem like the most  
6 appropriate entity.

7 Q. Okay. And, the Settlement Agreement, Paragraph 9, does  
8 not require the Company to enter into a contract or  
9 formal arrangement with the Community Action Programs  
10 to have them market the program to their clients and  
11 assist their clients with applications for Lifeline, is  
12 that correct?

13 A. (Traum) The Settlement Agreement does not go down to  
14 that level of detail, but that is certainly an issue  
15 that the OCA would be very sympathetic to, and I'm sure  
16 will be discussed.

17 Q. Something that the OCA would want to see happen?

18 A. (Traum) I believe so.

19 Q. And, is my understanding correct, Ms. Gage, that, under  
20 Paragraph 5 of the Settlement Agreement, with respect  
21 to Wilton and Hollis exchanges, that, at the expiration  
22 of the one-year rate freeze period for Wilton and the  
23 two-year rate freeze period for Hollis, that those  
24 exchanges would not have to meet any of the five tests

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1       that are set forth in Section 6.2 relating to Kearsarge  
2       and Merrimack Companies?

3   A.   (Gage) That's correct.

4   Q.   Okay. So, those rates could automatically go up at the  
5       end of those one-year and two-year rate freeze periods,  
6       respectively?

7   A.   (Gage) That's correct.

8   Q.   Okay.

9   A.   (Bailey) Again, we believe the one-year and the  
10       two-year freeze will allow competitors time -- wireline  
11       competitors time to begin operating in those  
12       territories. And, we know that Comcast serves the  
13       majority of the Wilton exchange with cable facilities.  
14       So, it's likely that, since it's become easier for them  
15       to get certified, that they will start providing  
16       service. And, those were the two companies that Staff  
17       found services were available. And, given another  
18       wireline provider, we believe that, in one or two  
19       years, they will definitely have competitive  
20       alternatives in those exchanges.

21   Q.   So, that's the Staff's hope and belief at this point?

22   A.   (Bailey) That's the Staff's belief, yes.

23                   MR. LINDER: Okay. Mr. Chairman, I have  
24       one last question that I'd like to direct to Ms. Bailey.

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 And, Mr. Feltes has several questions for Ms. Bailey. The  
2 question that I have involves a confidential data  
3 response. And, I would like to be able to put it in the  
4 record and have the -- there are several numbers on that  
5 data response. It has to do with the number of Lifeline  
6 customers that currently participate in the Lifeline  
7 program for the four companies. And, it's confidential,  
8 and I don't believe that every party in this room is  
9 authorized under the protective agreements to have that  
10 information. And, I don't know the best way to present  
11 that. I don't want to disrupt the proceedings, but I feel  
12 that the information on that confidential data response is  
13 quite relevant to the -- that the Commission should have  
14 that information with respect to Lifeline. And, I can  
15 either introduce it now or introduce it when the panel is  
16 about to leave or five minutes before we're going to close  
17 the hearings for today. I want to disrupt things the  
18 least, but I would like to be able to do that.

19 CHAIRMAN GETZ: Does Mr. Feltes have  
20 confidential questions as well or is this the only  
21 confidential question?

22 MR. LINDER: This is the only  
23 confidential --

24 CHAIRMAN GETZ: Well, are there parties

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 -- Well, who's subject to -- Are there separately executed  
2 agreements in this case?

3 MR. COOLBROTH: Yes, there are, Mr.  
4 Chairman. I don't --

5 CHAIRMAN GETZ: Well, I guess one easy  
6 way of doing it is, if there are parties who are not  
7 subject to a protective agreement that would be good  
8 enough to leave the room, and there is no objection to  
9 that, then we could get the matter on the confidential  
10 portion of the record.

11 MR. COOLBROTH: The one question I have,  
12 Mr. Chairman, would be whether Mr. Linder believes he can  
13 ask his question without actually saying the confidential  
14 -- stating the confidential information, does he need to,  
15 you know, identify the number on line such and such or  
16 what have you, or whether he needs to actually say the  
17 number?

18 MR. LINDER: I appreciate the offer. I  
19 tried to figure out ways of asking the question without  
20 referring to the actual numbers on the document, and I  
21 can't think of any good way. So, --

22 CHAIRMAN GETZ: All right. Well, let's  
23 get this done. Who is subject to and has executed the  
24 protective agreements?

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 (Show of hands.)

2 CHAIRMAN GETZ: So, segTEL and the  
3 Consumer Advocate. So, that means that Granite State and  
4 Comcast are the parties that are not privy to these  
5 materials. Would the parties have any objection to  
6 leaving the room while we get this information on the  
7 record?

8 MR. PHILLIPS: No objection, Mr.  
9 Chairman.

10 MR. ABBOTT: No objection.

11 MR. LINDER: Thank you.

12 CHAIRMAN GETZ: And, I take it,  
13 Mr. Linder, this is going to take a couple of minutes?

14 MR. LINDER: That's correct.

15 CHAIRMAN GETZ: Thank you.

16 (Pages **81** through **84** of the hearing  
17 transcript is contained under separate  
18 cover designated as "**Confidential &**  
19 **Proprietary**".)

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[WITNESS PANEL: Reed|Bailey|Gage|Traum]

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{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

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{DT 07-027} (12-04-07/Day I)

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{DT 07-027} (12-04-07/Day I)



[WITNESS PANEL: Reed|Bailey|Gage|Traum]

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{DT 07-027} (12-04-07/Day I)

1                                   **(Public session resumes.)**

2                                   MR. LINDER: When the parties return,  
3 then Mr. Feltes will be ready.

4                                   CHAIRMAN GETZ: Okay.

5                                   MR. LINDER: Thank you very much.

6                                   MR. FELTES: Mr. Chairman, members of  
7 the Commission, good afternoon. I know that we're going  
8 to break at 4:30, so I'll try to be as brief as possible.  
9 I only have a few questions.

10 BY MR. FELTES:

11 Q. Ms. Bailey, do you agree that there are no  
12 facilities-based CLECs providing voice service in any  
13 of TDS's service exchanges today?

14 A. (Bailey) It depends on what you mean by  
15 "facilities-based". Do I agree that there are no  
16 wireline providers? Wireless carriers have facilities  
17 and broadband providers have facilities.

18 Q. Well, let me reread the question. Do you agree that  
19 there are no facilities-based CLECs providing voice  
20 service in any of TDS's service exchanges?

21 A. (Bailey) Yes, I agree with that.

22 Q. Okay. And, does TDS currently have a rural exemption  
23 from unbundling network elements?

24 A. (Bailey) They do.

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Q. And, in your view, this presents a barrier to entry  
2 into TDS's markets?

3 A. (Bailey) Yes.

4 Q. And, you think that the rural exemption addressed on  
5 Pages 3 through 4 of the Settlement Agreement,  
6 premarked as "Exhibit 6" I believe, addresses the rural  
7 exemption?

8 A. (Bailey) Yes. Section 2 is entitled "Rural Exemption".  
9 And, in that section, TDS agreed to waive the rural  
10 exemption.

11 Q. And, a waiver of the rural exemption, in your view,  
12 will foster or encourage competition, correct?

13 A. (Bailey) Yes.

14 Q. And, that's a goal of this Settlement Agreement?

15 A. (Bailey) It's one of the goals.

16 Q. Is it your understanding that, except for the rate  
17 freeze provisions provided in the Settlement Agreement,  
18 that the Plan, as modified by the Settlement Agreement,  
19 becomes effective on the first of the month following  
20 Commission approval?

21 A. (Bailey) I believe that's what the Plan says, yes.

22 Q. Okay. Now, let's turn to -- referring to Item 6.2 of  
23 the Settlement Agreement, Exhibit 6, as you've already  
24 testified, and so has the panel, is it your

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 understanding that Kearsarge and Merrimack are allowed  
2 to raise their rates, subject to the 10 percent  
3 benchmark, after two years, if they show that they meet  
4 at least one of the items in Item 6.2?

5 A. (Bailey) Yes.

6 Q. And, you've mentioned that Hollis and Wilton don't have  
7 to meet this, any of those benchmarks, because you have  
8 predicted that in one to two years that competition  
9 would exist in their exchanges?

10 A. (Bailey) I'm struggling with the word "competition  
11 exists". One of the issues in the whole case is "what  
12 is a competitive alternative?" And, Staff, in  
13 Ms. Gage's testimony, found that there were  
14 alternatives in Hollis and Wilton. And, in  
15 Dr. Chattopadhyay's testimony, he found that those  
16 services by themselves were not yet competitive, but  
17 that they were more competitive than the Kearsarge and  
18 Merrimack exchanges, where we didn't even find that  
19 alternatives exist in each exchange. So, if a wireline  
20 provider starts offering service in those areas, then,  
21 yes, we predict that competitive alternatives will be  
22 available in Hollis and Wilton.

23 Q. But there's no test, in fact, that the rates go up or  
24 are allowed to go up, even if a wireline provider

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 doesn't provide or offer service, because it's not  
2 subject to the test in 6.2?

3 A. (Bailey) Correct.

4 Q. All right. In looking at 6.2, (i) through (iv), do you  
5 agree, as you testified earlier, that a non-affiliated  
6 CLEC or a non-affiliated cable provider offering a  
7 bundled service could meet those tests?

8 A. (Bailey) Yes.

9 Q. Despite the price in which they price those bundles?

10 A. (Bailey) As I testified earlier, Staff believes that a  
11 wireline alternative is a very close substitute to the  
12 services that TDS provides. And, because wireline  
13 service is such a close substitute, Staff is convinced  
14 that, if an alternative wireline service is available,  
15 TDS's pricing will be adequately constrained, and the  
16 statutory requirement will then be satisfied.

17 Q. So, it's your point of view that TDS's prices for basic  
18 service exchange will be constrained by a  
19 non-affiliated CLEC or a non-affiliated cable provider  
20 providing bundles, let's say, at the price of \$100?

21 A. (Bailey) I think that's a question that would be better  
22 asked of Dr. Chattopadhyay. One hundred dollars seems  
23 high to me.

24 Q. Do you agree that there's no measure involved in Items

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 (i) through (iv), the tests in 6.2, there's no measure  
2 of whether or not these services that might be offered  
3 in the future are competitive?

4 A. (Bailey) Well, as I've stated a couple of times now, I  
5 believe that, because it's a wireline service, it is a  
6 very close substitute. And, it will provide some price  
7 constraint on the Company, which satisfies the  
8 statutory test.

9 Q. Does the Plan, as modified by the Settlement Agreement,  
10 address transaction and contracts between and amongst  
11 affiliates?

12 A. (Bailey) I'm not sure I understand the question.

13 Q. Does it address -- You're aware that TDS has some  
14 subsidiaries involved in this case, correct?

15 A. (Bailey) Yes.

16 Q. Does it address contracts between the subsidiaries of  
17 TDS?

18 A. (Bailey) I believe the statute has a provision about  
19 affiliate contracts. Yes, V in the statute, says  
20 "Following approval of the Plan, the small ILEC shall  
21 no longer be subject to rate of return regulation or be  
22 required to file affiliate contracts" or seek  
23 Commission approval for other things.

24 Q. And, outside of the statute, does the Plan address --

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 A. (Bailey) I think Mr. Reed has a point to add to that.

2 A. (Reed) If I might?

3 Q. Sure.

4 MS. ROSS: Yes, I think these questions  
5 might be better directed to the Company.

6 **BY THE WITNESS:**

7 A. (Reed) Well, and again, I just want to point to the  
8 same items that you're mentioning, and point out that,  
9 you know, it does say "non-affiliated cable company",  
10 TDS does have a cable affiliate in one company,  
11 "non-affiliated cable provider", "non-affiliated CLEC".  
12 So, there are even additional precautions taken in  
13 here, in addition to what Ms. Bailey just mentioned.

14 MR. FELTES: Thank you, Mr. Reed.  
15 Chairman Getz, I don't know the best way to do this. I  
16 just have a couple of data requests on this topic that  
17 perhaps we can just -- I could give to one of the  
18 witnesses, and then we could just read them and go through  
19 them. It will only take a few minutes. Is that  
20 appropriate?

21 CHAIRMAN GETZ: That would be fine. The  
22 data requests that they have already answered or that  
23 someone else answered in this proceeding?

24 MR. FELTES: That's correct. That TDS

1 has already answered.

2 (Atty. Feltes distributing documents to  
3 Witness Reed.)

4 BY MR. FELTES:

5 Q. Mr. Reed, I handed you three data response -- data  
6 request responses. And, I believe it starts with the  
7 response to Patnode 2-12, is that correct?

8 A. (Reed) Yes.

9 Q. I'm going to read the question and then the answer.  
10 And, it was answered actually by Timothy Ulrich. The  
11 question: "Please explain how the Plan regulates  
12 transactions between and amongst affiliates." Mr.  
13 Ulrich's response: "The Alternative Regulation Plan  
14 presented by each of the Petitioners did not address  
15 affiliates." Did I read that correctly?

16 A. (Reed) That's correct.

17 Q. And, do you agree with that?

18 A. (Reed) Yes, as the Plan. As long as we're not talking  
19 about the Settlement Agreement, we're talking about the  
20 Plan here. And, I just want to mention, Mr. Ulrich  
21 will be here tomorrow, if you care to address any of  
22 these questions to him. I'm happy to take them, but we  
23 are going to make our witness available tomorrow. So,  
24 I'll be happy to do this, I have no problem.



[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Q. I just have two more.

2 A. (Reed) That's fine.

3 Q. There's only three. It will only take a minute. The  
4 next one is Patnode 2-13. The question: "Explain how  
5 the Plan regulates or safeguards against coordinated  
6 pricing decisions between and amongst affiliates for  
7 products and services that may be in the market for  
8 basic local exchange service." The response: "See the  
9 response to Patnode 2-12." Did I read that correctly?

10 A. (Reed) That's correct.

11 Q. Do you also agree with that?

12 A. (Reed) Yes.

13 Q. And, I believe the last one that I handed to you is --

14 MR. COOLBROTH: Mr. Chairman, if I  
15 could, just briefly, if counsel could show me the ones  
16 that he's got, we may well stipulate. I mean, if these  
17 are responses that we made, we're not going to contest,  
18 and I don't think need to read every one of them, we'll be  
19 here a long time. So, --

20 CHAIRMAN GETZ: I think this is the last  
21 one.

22 MR. COOLBROTH: Okay.

23 BY MR. FELTES:

24 Q. Mr. Reed, we'll just go through this last one real

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1        quick. The question: "Explain how the Plan regulates  
2        and safeguards against comparable pricing between and  
3        amongst affiliates for products and services that may  
4        be in the market for basic local exchange service."

5        The response: "Please see Patnode 2-12." Is that  
6        correct?

7        A. (Reed) Yes.

8        Q. Do you agree with that?

9        A. (Reed) Yes.

10      Q. All right. Switching back to Ms. Bailey. Ms. Bailey,  
11      do you understand the Plan, or the Plan as modified by  
12      the Settlement Agreement, to provide for more pricing  
13      flexibility amongst TDS's bundles?

14      A. (Bailey) Yes.

15      Q. And, do you agree that providing competitively priced  
16      bundles can create pressure on TDS to increase its  
17      prices for basic local exchange service?

18      A. (Bailey) Well, I think Mr. Traum answered that question  
19      quite well. And, in my opinion, it's possible. But  
20      it's also possible, if they weren't under a plan, that  
21      they would be in here for a rate case to increase their  
22      rates. And, under a rate case, their rates could  
23      increase above the Verizon rate. Under the Plan, it  
24      caps at the Verizon rate.

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 A. (Reed) Might I chip in on this one?

2 Q. Sure.

3 A. (Reed) Okay. I think we really need to step back and  
4 look at the statute. The statute recognized that  
5 there's competition already there. And, when you have  
6 competition, you're going to have challenges, pressures  
7 against your earnings. What was put in the statute is  
8 limitations, and what has been included in the Plan are  
9 those limitations. And, what has been included in the  
10 Settlement discussion are even further limitations of  
11 the impacts that could be placed on the consumer in the  
12 face of that competition.

13 Q Mr. Reed, do you agree that reasonable people and  
14 reasonable lawyers can disagree with the interpretation  
15 of the statute and what the Legislature may or may not  
16 have found?

17 A. (Reed) I certainly do. But I should also point out  
18 that we, in the Settlement Agreement, it does point out  
19 the pressures are -- there's a limit that could be put  
20 onto the ratepayers. And, please don't forget  
21 Section 3.2, that, despite the competition, that the  
22 basic service will be offered, the  
23 carrier-of-last-resort will continue to be offered to  
24 all the customers.

{DT 07-027} (12-04-07/Day I)

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Q. Thank you. Ms. Bailey, does the Plan, or the Plan as  
2 modified by the Settlement Agreement, safeguard against  
3 the shifting of costs from unregulated services to  
4 regulated services? There will still be some regulated  
5 services.

6 A. (Bailey) Well, there may be some regulated services.  
7 But, under this Alternative Regulation Plan, the prices  
8 are no longer regulated, except for the cap on basic  
9 service that the Legislature put in place, which is at  
10 the Verizon basic service rate.

11 MR. FELTES: I promise I'll be done by  
12 4:30. I just need to approach. It's another data  
13 request.

14 (Atty. Feltes handing document to  
15 Witness Bailey.)

16 MR. FELTES: I'm sorry. I'm going to  
17 give copies of this data request out to whoever wants it.  
18 And, if you want to raise your hand?

19 (Atty. Feltes distributing documents.)

20 BY MR. FELTES:

21 Q. Ms. Bailey, this had been premarked as "Bailey 54".  
22 It's a response to Patnode Question 2-3. The question,  
23 I'll read it: "For each service and transaction  
24 detailed in the answer to Data Request 1, please

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 explain how the Plan prevents the shifting of costs of  
2 providing basic local exchange service from basic local  
3 exchange service to the calculation of costs of other  
4 services and transactions." So, the question goes to  
5 whether or not basic local service, as you mentioned,  
6 which would be price deregulated, whether or not the  
7 Company could allocate the costs somehow in accounting  
8 from the costs of basic local service over to something  
9 that's regulated?

10 A. (Bailey) Whether the costs of basic service could be  
11 shifted to a regulated service? Is that what you just  
12 asked me?

13 Q. That's right. I'm presuming that there is tariffs and  
14 other items that the Commission and other folks still  
15 review. And, those tariffs and rates and everything  
16 else are based on costs, to some extent.

17 A. (Bailey) Are you talking about under the Plan or under  
18 today?

19 Q. Under the Plan.

20 A. (Bailey) Well, under the Plan, they'll file rate sheets  
21 like a CLEC, and there is no cost analysis.

22 Q. Is there any cost analysis of any service, either at  
23 the FCC or at the Commission?

24 A. (Bailey) Not at the Commission.

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 Q. Okay. I just have one last question. Are competitive  
2 wireline, wireless, or broadband services available to  
3 a majority of the customers in each and every exchange  
4 of TDS today?

5 A. (Bailey) No.

6 MR. FELTES: All right. Thank you.

7 **BY THE WITNESS:**

8 A. (Reed) You don't want me to add onto that? I would say  
9 "yes".

10 A. (Bailey) Which is exactly why we reached a Settlement.

11 A. (Traum) And, I guess then, to just complete the record,  
12 the OCA would agree with Staff.

13 BY MR. FELTES:

14 Q. Thank you, Ken. Mr. Reed, which exchanges --

15 MR. FELTES: One second to confer.

16 (Atty. Feltes conferring with Atty.

17 Linder.)

18 BY MR. FELTES:

19 Q. This question is for Mr. Traum. Are there any  
20 exchanges, in your opinion today, that include  
21 competitive wireline, wireless, or broadband service?

22 A. (Traum) No.

23 Q. Are there any exchanges today in TDS's service  
24 territories that have competitive wireline, wireless,

[WITNESS PANEL: Reed|Bailey|Gage|Traum]

1 or broadband service available to a majority of retail  
2 customers?

3 A. (Traum) I'd say "no", and that was the basis of  
4 Dr. Loube's initial testimony.

5 MR. FELTES: No further questions.  
6 Thank you.

7 CHAIRMAN GETZ: Will there be, well,  
8 we're close to 4:30, but is their redirect? We can, I  
9 guess, pick that up as the first thing tomorrow.

10 MS. ROSS: Why don't we pick it up as  
11 the first thing tomorrow.

12 CHAIRMAN GETZ: All right. Is there  
13 anything else we should address before we recess for the  
14 day?

15 MR. COOLBROTH: Mr. Chairman, we had  
16 discussed the possibility of starting at 9:00 tomorrow  
17 morning. Are we, in fact, doing that?

18 CHAIRMAN GETZ: We will be starting at  
19 9:00 a.m. All right. Then, hearing nothing else, we'll  
20 recess for today, and resume tomorrow morning at 9:00 a.m.  
21 Thank you, everyone.

22 **(Whereupon the hearing ended at 4:30**  
23 **p.m. and the hearing to resume at 9:00**  
24 **a.m. on December 5, 2007.)**