

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DT 07-027

Kearsarge Telephone Company, Wilton Telephone Company, Inc.,
Hollis Telephone Company, Inc. and Merrimack County Telephone Company
Petition for Alternative Form of Regulation

**OBJECTION BY KEARSARGE TELEPHONE COMPANY
AND MERRIMACK COUNTY TELEPHONE COMPANY
TO REQUEST FOR HEARING AND RESPONSE
OF DANIEL BAILEY**

Kearsarge Telephone Company (“KTC”) and Merrimack County Telephone Company (“MCT”) hereby object to the “Request for Hearing and Response on Behalf of Daniel Bailey to Filings by Kearsarge Telephone Company and Merrimack County Telephone Company and Motion of Merrimack County Telephone Company” dated June 24, 2010 (the “Bailey Motion”) and in support of their objection state as follows:

1. The Bailey Motion requests a hearing but does not identify the evidentiary issues to be adjudicated at such a hearing. KTC and MCT respectfully submit that Mr. Bailey should be required to identify the evidentiary issues that require a hearing. KTC and MCT have clearly demonstrated through number ports, confirmed service orders and web site advertising materials that Comcast Phone of New Hampshire, LLC (“Comcast Phone”) is offering its phone service in the relevant exchanges. KTC and MCT have previously presented evidence that the Comcast cable network is available to a majority of the customers in each of the relevant exchanges. This evidence is confirmed in the response by Comcast Phone to the Office of the Consumer Advocate’s motion to require Comcast’s phone to become a mandatory party. Mr. Bailey has

not asserted how this evidence fails to meet the requirements of the Commission's Order No. 25,103 dated May 14, 2010 (the "Order").

2. KTC objects to Mr. Bailey's request for a hearing with respect to KTC in that he has no standing to raise these issues. Mr. Bailey is not a customer of KTC and has no interest in either the evidence submitted or the merits of KTC's alternative regulation plan. There are no cognizable legal interests of Mr. Bailey that are affected by the Commission's action on the evidence submitted with respect to cable telephone service offered within the exchanges of KTC.

3. KTC and MCT object to Mr. Bailey's request to consolidate any hearing on the evidence submitted by KTC and MCT in response to the Order. The evidence for KTC is complete. For MCT, the proposed new evidence will address the availability of wireless alternatives in the Bradford and Warner exchanges. No additional evidence regarding wireless service is before the Commission with respect to KTC. Moreover, the evidence for MCT, consisting of tests to be performed by wireless coverage experts, requires time to complete before it is submitted to the Commission. The interests of efficiency and orderly conduct of the proceeding are not served by requiring the ruling on the KTC cable phone evidence to await the development of wireless coverage evidence for MCT.

4. With respect to the responses to Mr. Murray's affidavits, KTC and MCT assert that the arguments regarding asserted legal errors in the Order should be raised in a motion for rehearing following a final order, not a hearing on compliance with the directive to show that Comcast Phone is actually offering service in the relevant exchanges.

5. Moreover, KTC and MCT note that Mr. Bailey's characterization of the Order as inconsistent with prior orders in this Docket arises from incomplete statements of language referenced in the prior orders. As is the case with the motion of the Office of the Consumer

Advocate, when the full passages in the prior orders are taken as a whole, it is clear that there is no inconsistency.

6. The issues that Mr. Bailey raises regarding the level of competition required to be shown for approval of an alternative regulation plan under RSA 374:3-b constitute an attempt to mount a collateral attack on the contrary rulings made by this Commission in its prior orders approving the alternative regulation plans of Wilton Telephone Company, Inc. (“WTC”) and Hollis Telephone Company, Inc. (“HTC”). Over the objections of KTC and MCT, Mr. Bailey was a party to the Docket and was permitted to litigate the WTC and HTC alternative regulation plans. Mr. Bailey made those same points about the required showing of competition. The Commission rejected Mr. Bailey’s claims, and Mr. Bailey did not appeal the Commission’s rulings. Those rulings *res judicata* as to Mr. Bailey and are not subject to further review.

7. Similarly, the Commission ruled that the virtually identical provisions of the WTC and HTC plans regarding universal access to affordable basic local exchange service satisfied the applicable criteria in RSA 374:3-b, III(e). The arguments of Mr. Bailey on these issues have already been rejected by the Commission and are also *res judicata* as to Mr. Bailey.

8. This proceeding is now over three years old. The procedures proposed by the Office of the Consumer Advocate and Mr. Bailey would prolong the matter further still. The Commission identified specifically the further evidence required for approval of the KTC plan. That evidence has been submitted. KTC asks that the Commission proceed to approve that plan promptly. With regard to MCT, MCT urges the Commission to grant its motion for an opportunity to supplement the record and to act expeditiously on the MCT submissions when they are complete.

9. For all of the foregoing reasons, KTC and MCT respectfully request that the Bailey Motion be denied.

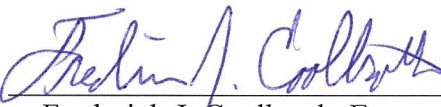
Respectfully submitted,

KEARSARGE TELEPHONE COMPANY
MERRIMACK COUNTY TELEPHONE
COMPANY

By its Attorneys,

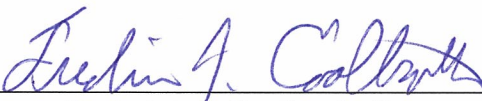
DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

Dated July 6, 2010

By: 
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CERTIFICATE OF SERVICE

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


Frederick J. Coolbroth, Esq.