DT07-027

DEVINE MILLIMET

ATTORNEYS AT LAW

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FILE

March 1, 2007

FREDERICK J. COOLBROTH
603.410.1703
FCOOLBROTH@DEVINEMILLIMET.COM

MAR 01 2007
NH PUBLIC UTILITIES COMMISSION

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

Re: Alternative Form of Regulation – Wilton Telephone Company, Inc.

Dear Ms. Howland:

Enclosed for filing and docketing are an original and seven (7) copies of a Petition by Wilton Telephone Company, Inc. for Approval of an Alternative Form of Regulation.

A diskette containing the petition is also enclosed.

Portions of Exhibit 2, the direct testimony of Michael C. Reed are confidential and have been redacted. The unredacted testimony is being filed separately pursuant to RSA 378:43. The confidential portions pertain to the provision of competitive services; set forth trade secrets and other confidential information falling within the scope of RSA 378:43, II(d); and are not general public knowledge or published elsewhere, the petitioner having taking measures to prevent dissemination of the information in the ordinary course of business.

Very truly yours,

Frederick J. Coolbroth

Frederick J. Coolbroth

NHPUC MAR01'07 PM 3:46

FJC:kaa

Enclosures

cc: Office of Consumer Advocate

STATE OF NEW HAMPSHIRE

BEFORE THE

PUBLIC UTILITIES COMMISSION

DT 07-____

Petition by Wilton Telephone Company, Inc. for Approval of an Alternative Form of Regulation

Wilton Telephone Company, Inc., a New Hampshire corporation and a public utility operating pursuant to the jurisdiction of this Commission ("WTC"), hereby petitions the Commission pursuant to RSA 374:3-b for approval of an alternative form of regulation. In support of its petition, WTC states as follows:

1. WTC has its principal place of business at 109 Main Street, Wilton, New Hampshire and provides telecommunications service, including exchange service and exchange access service within the Wilton exchange.

2. WTC is an incumbent local exchange carrier and a rural telephone company as each of those terms is defined in the Telecommunications Act of 1996.

3. WTC is a wholly-owned subsidiary of TDS Telecommunications Corporation ("TDS Telecom"). Other incumbent local exchange carrier subsidiaries of TDS Telecom in New Hampshire are Kearsarge Telephone Company ("KTC"), Merrimack County Telephone Company. ("MCT") and Hollis Telephone Company, Inc. ("HTC"). KTC, MCT and HTC are each contemporaneously filing petitions for approval of an alternative form of regulation.

4. WTC serves fewer than 25,000 access lines.

5. WTC proposes to adopt an alternative form of regulation in accordance with the terms contained in an "Alternative Regulation Plan of Wilton Telephone Company, Inc." attached hereto as Exhibit 1 (the "Plan").

6. Competitive wireline, wireless or broadband service is available to a majority of the retail customers in the exchange served by WTC.

7. The Plan provides for maximum basic local service rates at levels that do not exceed the comparable rates charged by the largest incumbent local exchange carrier operating in New Hampshire (i.e., Verizon New England, Inc., d/b/a Verizon New Hampshire) and that do not increase by more than ten percent (10%) in each of the four (4) years after the Plan is approved with the exception that the Plan provides for additional rate adjustments with this Commission's review and approval, to reflect changes in federal, state or local government taxes, mandates, rules, regulations or statutes.

8. The Plan promotes the offering of innovative telecommunications services within New Hampshire.

9. The Plan meets intercarrier service obligations of WTC under other applicable laws.

10. The Plan preserves universal access to affordable basic service.

11. The Plan provides that, if WTC subsequently fails to meet any of the conditions set out in RSA 374:3-b, this Commission, after notice and hearing, may require WTC to propose modifications to the Plan or return to rate of return regulation.

12. The Plan allows WTC to offer bundled services that include combinations of telecommunications, data, video and other services.

13. There are attached hereto the following additional exhibits:

A. Exhibit 2 - Pre-filed direct testimony of Michael C. Reed; and

B. Exhibit 3 - Pre-filed direct testimony of Timothy W. Ulrich.

14. The testimony of Messrs. Reed and Ulrich and the contents of the Plan itself demonstrate that WTC is eligible to obtain approval of an alternative form of regulation under RSA 374:3-b and that the Plan meets the requirements under that statute for approval.

15. Approval of the Plan will better enable WTC to meet the competitive demands of the marketplace while continuing to provide universal basic telephone service at affordable rates.

16. Under the Plan, WTC will continue to serve as the provider of last resort within its exchange.

WHEREFORE, WTC respectfully requests that this Commission:

A. Consolidate the proceedings on this Petition with the proceedings involving the petitions for approval of alternative forms of regulation filed by KTC, MCT and HTC;

B. Order such notice and conduct such hearings as the Commission may deem appropriate;

C. Following such notice and hearing, make a finding that the Plan meets the requirements for approval under RSA 374:3-b and approve the Plan; and

D. Make such other findings and enter such further orders as the Commission may deem just and reasonable.

Respectfully submitted,

WILTON TELEPHONE COMPANY, INC.

By Its Attorneys,

DEVINE, MILLIMET & BRANCH,
PROFESSIONAL ASSOCIATION

Dated: March 1, 2007

By: _____

Frederick J. Coolbroth, Esq.
49 N. Main Street
Concord, NH 03301
(603) 226-1000
fcoolbroth@devinemillimet.com

ALTERNATIVE REGULATION PLAN OF WILTON TELEPHONE COMPANY, INC.

Wilton Telephone Company, Inc.'s ("Company") plan for an alternative form of regulation ("Plan") is established pursuant to RSA 374:3-b. The Plan's provisions outlined herein shall establish the method and applicable statutes and administrative rules by which the New Hampshire Public Utilities Commission ("Commission") will regulate the intrastate services offered by the Company.

1. Goals of the Plan.

1.1. Set forth the regulatory requirements applicable to the Company's retail operations that are comparable to the regulation the Commission applies to competitive local exchange carriers.

1.2. Ensure that a high level of service continues to be provided to the Company's customers while maintaining a network that meets customer's needs and allows them to have access to innovative services.

1.3. Facilitate the transition to a competitive telecommunications market in the Company's territory, including satisfaction of the Company's intercarrier service obligations.

1.4. Preserve universal service by maintaining the Company's status as the carrier of last resort to ensure customers have access to affordable basic telephone service.

2. Term and Termination.

2.1. Term: The Plan will be effective on the 1st day of the month following the issuance of the Commission's final order approving the Plan (herein referred to as the "effective date"), and will continue until the Plan is terminated pursuant to 2.2.

2.2. Termination by Company: The Company shall have the right to terminate the Plan by filing a notice of termination with the Commission. Immediately upon the filing of a notice of termination, the Company shall return to the form and level of regulation under which it operated prior to the approval of the Plan or, in the alternative, if the Company qualifies for another form of regulation at that time, the Company may elect that form of regulation.

2.3 Commission Action: After providing the Company an opportunity for a hearing and in the event that the Commission determines that the Company no longer meets the criteria for eligibility for an alternative regulation plan under RSA 374:3-b, the Commission may require the Company to propose modifications to the Plan or return to its prior form of regulation.

3. Regulation of the Company under the Plan.

3.1. Pursuant to RSA 374:3-b, II, the Company's retail operations shall be regulated in a manner comparable to the regulation applied to a Competitive Local Exchange Carrier except that the Company shall continue to be subject to regulations necessary for the Company to continue its obligation as a carrier of last resort, and to meet federal and state intercarrier obligations.

3.1.1. A listing of the administrative rules and regulations applicable to the Company is set forth in Appendix 1. All other rules that would otherwise apply to the Company are waived by the Commission.

3.1.2. The Company shall not be subject to rate-of-return regulation, and the Commission shall not consider rate base, rate-of-return or the overall earnings of the Company in connection with any rate changes made pursuant to this Plan.

3.1.3. During the term of this Plan, the Company shall not be required to file affiliate contracts or obtain prior Commission approval of financings or corporate organizational changes, including, without limitation, mergers, acquisitions, corporate restructurings, issuance or transfer of securities, or the sale, lease, or other transfer of assets or control.

3.2. During the term of the Plan, the Company shall continue to provide service as the carrier of last resort providing "basic service" as defined in Puc 402.05 and Puc 412.01.

3.3. Rates and charges for the Company's services shall be subject to §4 below.

3.4. The Company shall meet its intercarrier obligations under other applicable laws including, without limitation, the federal Telecommunications Act of 1996 and applicable successor legislation.

3.5. The Company will be able to offer bundled services that include combinations of regulated and unregulated services.

3.6. While this Plan is effective, the Company reserves all of its rights under the Telecommunications Act of 1996 as a Rural Telephone Company. By effectuating this Plan, the Company does not explicitly or implicitly waive any of its federal rights including its rights to a rural exemption under 47 USC § 251(f)(1), to seeking a suspension or modification under 47 USC § 251(f)(2) or the requirements set forth in 47 USC § 253. Approval of this Plan shall also not constitute a waiver of the Commission's authority under those provisions.

4. Pricing Structure and Tariff Requirements for Retail and Wholesale Services

4.1. Basic Retail Service Rates: The Company may increase or decrease its rates for Basic Retail Service at any time as long as the rates (absent any rate adjustments pursuant to §4.1.2 for exogenous changes) do not exceed the rates for Basic Retail

Service for comparable customers in comparable rate groups charged by the largest incumbent local exchange carrier in the state of New Hampshire and subject to the annual percentage limitation set forth in Section 4.1.1 ("Rate Cap").

4.1.1. The maximum level of the Company's rates for Basic Retail Service in each exchange shall not increase by more than ten (10) percent annually ("Annual Percentage Rate Cap") in each of the four (4) years after the effective date of the Plan.

4.1.2. Rate adjustments pursuant to §7 for exogenous changes will not be included for the purposes of calculating the Rate Cap established in §4.1.

4.1.3. The Company may bundle any Basic Retail Service with any other regulated or unregulated services (e.g., long distance, Caller ID, Internet, video), which then will be priced and regulated as a Non-Basic Retail Service pursuant to §4.2 (e.g., prices for each bundle will be set at the discretion of the Company), provided that the unbundled Basic Retail Service continues to be offered to customers.

4.1.4. Tariff Requirements: The Company shall file rate schedules similar to the provisions of Puc 431.06. The Company will adopt the Uniform Tariff prescribed pursuant to Puc 431.05.

4.1.4.1 The Company will file the Uniform Tariff within 90 days from the Commission's final order approving the Plan.

4.2. Non-Basic Retail Services: Non-Basic Retail Services are all intrastate retail telecommunications services other than Basic Retail Service.

4.2.1. Rates: All rates and charges for all Non-Basic Retail Services, and all new services introduced by the Company will be set and will increase or decrease in response to market conditions.

4.2.2. Pricing for these services is at the discretion of the Company; provided, however, that if the Company itself offers intraLATA toll services (which it does not as of the effective date of the Plan), such intraLATA toll services shall be priced at levels which are not less than the price of the lowest form of access that competitors would purchase to compete for customers with comparable volumes of usage, plus the incremental cost of related overhead.

4.2.3. Tariff Requirements: The Company shall file rate schedules similar to the provisions of Puc 431.06. The Company will adopt the Uniform Tariff prescribed pursuant to Puc 431.05.

4.2.3.1 The Company will file the Uniform Tariff within 90 days from the Commission's final order approving the Plan.

4.3. Wholesale Services: The Company shall continue to provide the existing wholesale intercarrier services (including, but not limited to, switched access, special access, reciprocal compensation and unbundled network elements) in compliance with applicable state and federal administrative laws, rules and regulations.

4.3.1 For the duration of the Plan, the Company's intrastate access rates will be capped at the level that existed on the effective date of the Plan. However, the Company may file cost studies supporting increasing these rates above the existing levels, which will become effective upon approval by the Commission.

4.3.2 The Company will maintain its existing Intrastate Access Tariff until such future time when an alternative mechanism or detariffing is approved by the Commission.

4.3.3 The Company may reduce intrastate access rates below their existing levels upon a one day notice to the Commission.

5 Offering of Innovative Services

5.1. The Company commits to maintaining a network that will enable the offering of state-of-the-art, innovative services to its customers by the Company, its wholesale providers, and others. Pursuant to this commitment, the Company shall:

5.1.1. Maintain its network infrastructure in order to ensure the continued availability of reliable, high quality telecommunication services throughout its service territory.

5.1.2. Regularly assess customer satisfaction.

6. Service Quality.

6.1. The Company shall comply with the service quality standards pursuant to Puc 413.06 d.

6.2. The Company will continue to file the service quality reports required pursuant to Puc 411.06 a-c.

7. Exogenous Changes.

7.1. With Commission review and approval, the Company may (and, upon Commission order, the Company shall) adjust the prices for its Basic Services upward or downward due to the financial impacts of exogenous changes. For purposes of this section, the term exogenous change shall mean a change in any single federal, state or local government tax, mandate, rule, regulation, or statute which causes a change in a local exchange carrier's total intrastate regulated revenue, expenses, or plant in service, of more than 2% in any twelve-month period, as compared to the base period. The base period shall be the later of the

following: the twelve-month period immediately preceding the effective date of alternative regulation, three years prior to the proposed exogenous change, or the period covered by the last exogenous change for the same government action.

7.1.1 On its own initiative and after notice and hearing, the Commission may require the Company to adjust rates for circumstances that meet the criteria of §7.

7.2. Exogenous changes shall include, but are not limited to, the following:

7.2.1. Separations matters (involving the separation of investment, expenses, and revenues, between the intrastate and interstate jurisdictions).

7.2.2. Taxes (federal and state income taxes, and property or similar taxes).

7.2.3. Accounting rule changes.

7.2.4. Intercarrier compensation mechanism or any government action taken to reduce intrastate access charges pursuant to NH RSA § 378:17-a or any other statute or administrative rule.

7.2.4.1 Nothing within this Plan is intended to limit the Company's ability to participate in any funding mechanism that may be created to alter the existing intrastate access rate structure or intercarrier compensation mechanism.

7.2.5. Other federal, state, or local governmental activity (including legislative, judicial, and administrative events).

7.3. In such an event, the Company may petition the Commission to adjust any of its rates accordingly. The petition shall include a description of the exogenous change, the proposed adjustment to prices, the duration of the adjustment, and the estimated financial impact of the governmental action.

7.4. The Commission may initiate an investigation of a proposed exogenous factor rate change within 30 days after receiving the request in § 7.3 or on its own motion. Such investigation shall be limited to the financial impact of the proposed change and shall not include a rate-of return analysis. If the Commission does not initiate an investigation within 30 days after receiving the request, such request shall go into effect as filed by the Company. Within 60 days after initiating an investigation and following an opportunity for hearing, the Commission shall issue an order approving, modifying or rejecting the rate change. If a hearing is held, the time within which the Commission may issue an order may be extended by 30 days. The Commission may suspend a proposed rate structure alteration or rate increase pending the issuance of the order. If the Commission does not act within 60 days (or 90 days if a hearing is held) after initiating an investigation, then the request shall go into effect as filed by the Company.

7.5. The Commission shall approve the change in rates to reflect an exogenous change if the Commission finds that:

7.5.1. An exogenous change has caused the financial impact under §7.1.

7.5.2. The exogenous change causing the financial impact has been correctly identified.

7.5.3. The proposed rate changes produce revenue covering only the financial impact of the exogenous change.

7.5.4. The rates would be applicable to the appropriate class or classes of customers.

Appendix 1

The following Puc 400 rules shall apply to the Company upon approval of the alternative regulation plan:

Rule Number	Title
Puc 410	**Incumbent Local Exchange Carriers (ILECS)**
Puc 410.01	Purpose
Puc 410.02 b	Application of Rules
Puc 410.03 a-b a-b	Definitions
Puc 411	**ILEC Regulatory Requirements**
Puc 411.03 a-b	Assessment
Puc 411.04	Contact Information
Puc 411.05 a-c	Information Required when Service Cannot be Provided
Puc 411.06 a-c	Quality of Service Information Required
Puc 411.08 a-g	Accident Notifications
Puc 412	**ILEC Customer Relations**
Puc 412.01 a-c	Provision of Basic Service
Puc 412.02 a-c	Telecommunications Relay Service
Puc 412.03 a-b	E911 Surcharge
Puc 412.05 a-f	Bill Forms
Puc 412.06	Application of Payments
Puc 412.08 a-c	Slamming Prohibited
Puc 412.09 a-b	Cramming Prohibited
Puc 412.12 a-b	Publication of Telephone Numbers
Puc 412.13 a-d	Confidentiality Requirements
Puc 412.14 a-b	Exit Fees
Puc 412.15 a-h	Disconnection of Service
Puc 412.16 a-k	Disconnection of Service to Lifeline Telephone Assistance Customers
Puc 412.17 a-n	Notice of Disconnection
Puc 412.18 a-j	Disconnection Conferences with Customer
Puc 412.19 a-h	Disconnection of Service to Non-Residential Customers
Puc 412.21 a-b	Application of Payments for Customers Participating in the Lifeline Telephone Assistance Program
Puc 413	**ILEC Equipment and Facilities**
Puc 413.02	Restoration of Service
Puc 413.03 a-d	Emergency Operation
Puc 413.04 a-d	Safety Instructions
Puc 413.05	Commission Inspections
Puc 413.06 d	Quality of Service Standards
Puc 415	**ILEC Reports and Filing**
Puc 415.01 b 1-2	Annual Reports
Puc 415.05 a-b	Submitting Reports and Forms
Puc 415.06	Confidential Treatment
Puc 417	**ILEC Operator Services**

Rule Number	Title
Puc 417.01 a-e	Provision of Service
Puc 418	**ILEC Intercarrier Obligations**
Puc 418.01 a-b	Intercompany Cooperation
Puc 418.02 a-g	Switching and Signaling Obligations
Puc 418.03 a-d	Trouble Reporting and Resolution Obligations
Puc 418.04	Rights of Ways
Puc 418.06 a-i	Carrier to Carrier Migrations
Puc 418.07 a-b	Intercompany Contact Information
Puc 418.08 a-b	Accessing, Maintaining and Updating of Databases
Puc 419	**ILEC Resale**
Puc 419.01 a-f	Resale Requirements
Puc 420	**ILEC Unbundling Rules**
Puc 420.01	Unbundled Network Elements
Puc 421	**ILEC Interconnection**
Puc 421.01 a-d	Provision of Interconnection
Puc 421.02 a-d	Terms and Conditions
Puc 421.03 a-b	Network Changes
Puc 429	**ILEC Forms**
Puc 429.01 a-b	Availability of Forms
Puc 429.02 a-e	Form ILEC-1 Contact Information
Puc 429.03 a-b	Form ILEC-2 Assessment Report
Puc 429.05 a-e	Form ILEC-4 Quality of Service Report
Puc 429.06 a-c	Form ILEC-5 Quality of Service Report Card
Puc 429.11 a-e	Form ILEC-30 Utility Accident Report
Puc 431	**CLEC Regulatory Requirements**
Puc 431.05 a-c	Uniform Tariff
Puc 431.06 a-i	Rate Schedule
Puc 431.08 a	Changes in Prices and Services
Puc 431.09 a-b	Annual Report
Puc 431.17 a	Service Outages
Puc 432	**CLEC Customer Relations**
Puc 432.04 a-c	CLEC Notices to Customers
Puc 432.07 a-e	Notice to Customers of Changes in Rates
Puc 432.10 a-c	Directories
Puc 432.19 a-b	Disconnection of Associated Services
Puc 433	**CLEC Equipment and Facilities**
Puc 433.01 a-c	Construction, Installation and Maintenance of Physical Plant
Puc 434	**CLEC Reports and Filings**
Puc 434.02	Biennial Reports
Puc 434.03 a, b 3-5	Annual Reports
Puc 435	**CLEC Records**
Puc 435.01 a-b	Preservation of Records
Puc 437	**CLEC Intercarrier Obligations**

Rule Number	Title
Puc 437.05 a-b	Exchange of Billing Name and Address Information
Puc 441	**CLEC Corporate Restructuring**
Puc 441.03 a-b	Change in Ownership
Puc 449	**CLEC Forms**
Puc 449.04 a-i	Form CLEC-3 Annual Report
Puc 449.08 a-b	Form CLEC-11 Intent to Use Uniform Tariff
Puc 449.10 a-d	Form CLEC-25 Rate Schedule Cover Sheet
Puc 449.15 a-c	Form CLEC-37 Change in Ownership

BEFORE THE STATE OF
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

DIRECT TESTIMONY OF MICHAEL C. REED
ON BEHALF OF MERRIMACK COUNTY TELEPHONE COMPANY,
KEARSARGE TELEPHONE COMPANY, WILTON TELEPHONE COMPANY, INC.
AND HOLLIS TELEPHONE COMPANY, INC.

1 **Q. Please state your name and business address?**

2 A. My name is Michael C. Reed and my business address is 24 Depot Square, Unit 2,
3 Northfield, Vermont 05663.

4 **Q. By whom are you employed, and in what capacity?**

5 A. I am employed by TDS Telecom as Manager State Government Affairs in TDS'
6 Government and Regulatory Affairs Department. I have responsibility for the State
7 Regulatory affairs and State Legislative affairs in Maine, New Hampshire, Vermont, New
8 York, and Pennsylvania.

9 **Q. Please describe your background and experience.**

10 A. I have held the position of Manager State Government Affairs at TDS Telecom since
11 1996. Prior to that, I held various positions with the NYNEX Corporation including
12 regulatory affairs, switching and outside plant operations, service quality oversight and
13 maintenance, before opting for early retirement in 1996. I have previously participated in
14 proceedings and offered testimony before this Commission.

15 **Q. What are your duties at TDS Telecom?**

16 A. I directly manage regulatory, legislative and industry relations for 22 TDS Telecom
17 ILECs in the five state area I mention above. I have direct responsibility for each state's
18 regulatory and legislative activity. Duties include monitoring and participation in
19 regulatory dockets and proceedings, as well as legislative and industry activities.

1 **Q. Do you consider the information contained in your testimony to be confidential in**
2 **nature?**
3 A. Yes, the majority of my testimony describes analysis of our competition and future plans
4 for our companies and is therefore competitively sensitive.
5 **Q. What is the purpose of your testimony?**
6 A. My testimony is submitted in support of the proposal by the New Hampshire TDS
7 Telecom companies (referred to collectively as "TDS" or the "Companies"), Merrimack
8 County Telephone Company ("MCT"), Kearsarge Telephone Company, Inc. ("KTC"),
9 Wilton Telephone Company, Inc. ("WTC") and Hollis Telephone Company, Inc.
10 ("HTC"), to adopt an Alternative Regulation Plan (the "Plan") pursuant to New
11 Hampshire RSA 374:3-b. I will review the eligibility criteria under that statute for
12 approval of such a plan and describe how the Companies and the Plan meet each of those
13 criteria. Mr. Ulrich reviews the Plan in detail in his testimony. Each of the four
14 Companies proposes to adopt the same Plan.
15 **Q. What standard have you applied in your analysis?**
16 A. I have followed RSA 374:3-b, III, which states:

17 "The Commission shall approve the alternative regulation plan if it finds
18 that:
19
20 (a) Competitive wireline, wireless, or broadband service is available to a
21 majority of the retail customers in each of the exchanges served by such small
22 incumbent local exchange carrier;
23 (b) The plan provides for maximum basic local service rates at levels that
24 do not exceed the comparable rates charged by the largest incumbent local
25 exchange carrier operating in the state and that do not increase by more than 10
26 percent in each of the 4 years after a plan is approved with the exception that the
27 plan may provide for additional rate adjustments, with public utilities commission
28 review and approval, to reflect changes in federal, state, or local government
29 taxes, mandates, rules, regulations, or statutes;

(c) The plan promotes the offering of innovative telecommunications services in the state;

(d) The plan meets intercarrier service obligations under other applicable laws;

(e) The plan preserves universal access to affordable basic telephone service; and

(f) The plan provides that, if the small incumbent local exchange carrier operating under the plan fails to meet any of the conditions set out in this section, the public utilities commission may require the small incumbent local exchange carrier to propose modifications to the alternative regulation plan or return to rate of return regulation."

Q. Please describe your analysis and your conclusions.

A. I will discuss each of the criteria in turn.

1. RSA 374:3-b, III(a) – Availability of Competitive Alternatives

Q. Please describe your analysis of the availability of competitive alternatives.

A. In accordance with the statutory language, I have first reviewed whether wireline service from other providers or wireless or broadband service is available to a majority of the customers in each of the exchanges. I also reviewed the evidence available to us showing that those alternatives are competitive. My testimony describes the competitive environment and the impacts of that competition on each company. I have included the following attachments that provide details for each company: Attachment A-MCT; Attachment B-KTC; Attachment C-WTC; and Attachment D-HTC.

Q. Please outline the information contained in the attachments.

A. The attachments identify the competitive wireline, wireless and broadband alternatives available in each exchange and utilize an impact analysis to determine the competitive nature of those alternatives. The Attachments also include a summary for each company that describes the competitors, our best estimate of the extent of competition, broadband

availability, local number portability ("LNP") availability, and the current local rates in comparison to the corresponding Verizon local rates.

We have measured the effects of competition on the companies with three key indicators; loss of intrastate access minutes, loss of state switched access revenue and finally the loss of access lines. Intrastate access minutes and toll is affected by all competition as customers use wireless service rather than landline for long distance calls, and email rather than long distance telephone service, while competitors such as Comcast offer unlimited calling plans along with their video products. Where broadband service is available to customers, whether DSL, cable modem or satellite, customers have access to VoIP offerings for long distance, as well as local. Loss of access lines is a clear indication of customers "cutting the cord," migrating to all wireless or a combination of wireless and cable modem service, or new residents never having a landline installed at all. While we are experiencing a decline in access lines, the 2005 Population Estimates of New Hampshire Cities and Towns prepared by the New Hampshire Office of Energy and Planning indicate population growth in the towns we serve between the last U.S. Census in 2000, and 2005. I would also point out that historically, prior to the availability of competitive choices, access lines increased in most companies approximately 2-3% each year, making the declines our companies are experiencing even more significant. Finally, the impact of the decline in both minutes of use and access lines has caused a significant reduction in state switched access revenue.

Our analysis finds that each exchange in each of the four companies meets this legislative standard for competitive availability. While the competition and competitors

1 vary in each company and in each exchange, customers have alternatives and are using
2 them. The impacts of the competition are significant and measurable.
3 **Q. Please describe the competitive alternatives in the MCT serving area.**
4 A. As shown on Attachment A-MCT, the majority of the retail customers in each MCT
5 exchange have the availability of competitive wireless, wireline or broadband service.
6 Five different wireless providers serve all or portions of the MCT territory, Adelphia
7 and/or Comcast serve a significant portion of the MCT customers, approximately %,
8 and I estimate that % of the customers have access to broadband service either using
9 DSL or cable modems, making VoIP an option for them.
10 **Q. Please summarize the impacts on MCT.**
11 A. Total intrastate access minutes have declined % from December 31, 2004 through
12 December 31, 2006. Residential access lines have declined % while total access lines
13 have declined % over the same period. The overall impacts of competition have
14 resulted in a % reduction in MCT's basic area revenue coupled with a % reduction in
15 state switched access revenue since 2004. There is no reason to think that usage
16 generally has declined. That usage has gone to other providers, particularly wireless, and
17 increasingly VoIP. Moreover, as is the case in all of our exchanges, the declines in usage
18 are occurring even though in most instances we are seeing development and growth in the
19 communities. We are not seeing that growth in lines and minutes and attribute the loss to
20 competition.
21 **Q. Please summarize the competition and impacts for KTC.**
22 A. Attachment B-KTC shows that the majority of KTC's retail customers in each exchange
23 have the availability of competitive wireless, wireline or broadband service. Six different

1 wireless providers serve all or portions of the KTC territory, Adelphia and/or Comcast
2 serve a significant portion of the KTC customers, approximately %, and I estimate that
3 % of the customers have access to broadband service, making VoIP an option for them.
4 In terms of impacts, total intrastate access minutes have declined % from December
5 31, 2004 through December 31, 2006. Residential access lines have declined %, while
6 total access lines have declined % over the same period. The overall impacts of
7 competition have resulted in a % reduction in KTC's basic area revenue as well as a
8 % reduction in state switched access revenue since 2004.

9 **Q. Please summarize the competition and impacts for WTC.**

10 A. Attachment C-WTC shows that the majority of the retail customers of WTC in each
11 exchange have the availability of competitive wireless, wireline or broadband service.
12 Four different wireless providers serve all or portions of the WTC territory, Adelphia
13 and/or Comcast serves a significant portion of the area, and I estimate that nearly % of
14 the customers have access to broadband service making VoIP an option for them. Total
15 intrastate access minutes have declined % from December 31, 2004 through December
16 31, 2006. Residential access lines have declined % while total access lines have
17 declined % over the same period. The overall impacts of competition have resulted in
18 a % reduction in WTC's basic area revenue, in addition to a % state switched access
19 revenue reduction since 2004.

20 **Q. Please summarize the competition and impacts for HTC.**

21 A. Attachment D-HTC shows that the majority of the retail customers of HTC in each
22 exchange have the availability of competitive wireless, wireline or broadband service.
23 Five different wireless providers serve all or portions of the HTC territory (Charter serves

1 a significant portion of the area) and I estimate that nearly % of the customers have
2 access to broadband service making VoIP an option for them. Total intrastate access
3 minutes have declined % from December 31, 2004 through December 31, 2006.
4 Residential access lines have declined % while total access lines have declined %
5 over the same period. The overall impacts of competition have resulted in both a %
6 reduction in HTC's basic area revenue and a significant % reduction in state switched
7 access revenue since 2004.

8 **Q. Do the four companies offer LNP, and have you received any bona fide requests as**
9 **required in 47 U.S.C. § 251(b) and 47 C.F.R. Part 52 of the Telecommunications Act**
10 **of 1996 from other companies?**

11 A. Yes. LNP is available in the entire service area of each of the four companies. We have
12 received bona fide requests from multiple wireless carriers in each of the companies and
13 have established trading partner profiles for the proper handling and routing of ported
14 numbers.

15 **Q. Have the companies received requests or orders to port local telephone numbers?**

16 A. Yes, we have received porting requests in three of the four companies. WTC has
17 received no requests at the time I prepared this testimony.

18 **Q. Please describe the analysis used by TDS to determine whether competitive wireline,**
19 **wireless or broadband service is available to a majority of the retail customers in**
20 **each of the exchanges of the four TDS companies.**

21 A. TDS used a variety of sources to analyze the competition, including
22 . While these are all useful tools in attempting to evaluate and
23 demonstrate to the Commission exactly where each of the competitors are located in our

1 serving areas, an excellent indicator of competition can be clearly seen in the significant
2 loss of intrastate minutes of use, loss in access lines and loss in intrastate revenue.
3 **Q. Please elaborate on the analysis.**
4 A. The wireless coverage information was gathered using
5 which displays service deployment coverage areas of wireless carriers. This product was
6 used in conjunction with
7
8 we were able to develop reasonable estimates.
9 Other sources for information or reference include the
10 , etc.
11 **Q. Does the Company have information as to why customers disconnect from its**
12 **network, or what alternative service they are choosing?**
13 A. The Company attempts to ask each customer who requests disconnection, the reason for
14 doing so. The information, of course, relies on the customer's willingness to share and
15 the individual interpretation of the response by the customer sales and service
16 representative. The numbers may not match to the exact loss in lines, but clearly point
17 out "in the customer's words" that TDS customers have choices in telecommunications
18 service providers and are leaving our network. For example, 2006 data illustrates that in
19 .
20 **Q. Are any of the competitors operating in the four companies certified as Competitive**
21 **Eligible Telecommunications Carriers (CETCs) and are they receiving Federal**
22 **Support?**

1 A. Yes. RCC Minnesota, Inc. (Unicel) is currently certified and is receiving support. US
2 Cellular has applied to receive Federal support dollars. In FCC Order DA 05-2673 in CC
3 Docket No. 96-45, the FCC granted the petition of RCC to be designated as an ETC in
4 portions of its licensed service area in NH. Appendix B of that Order lists the specific
5 Wire Centers for Inclusion in the RCC NH ETC Service Area. Appendix B includes 25
6 Wire Centers, 15 of which are Wire Centers served by MCT, KTC, HTC and WTC.
7 **Q. How is this Order granting ETC status an indicator of competition in the TDS NH**
8 **serving areas?**
9 A. FCC Order DA 05-2673 in Docket No. 96-45 ("Attachment F")states " *RCC has*
10 *demonstrated through the required certification and related filings that it now offers, or*
11 *will offer upon designation as an ETC, the services supported by the federal universal*
12 *service mechanisms*". As I understand the requirements of FCC rule 47 CFR §
13 54.101(a), the nine supported services include (1) voice grade access to the public
14 switched network; (2) local usage; (3) dual tone multi-frequency signaling or its
15 functional equivalent; (4) single-party service or its functional equivalent; (5) access to
16 emergency services; (6) access to operator services; (7) access to interexchange service;
17 (8) access to directory assistance; and (9) toll limitation for qualifying low-income
18 consumers.
19 **Q. Do you have any further comments regarding the competitive environment?**
20 A. It is possible to question the exact percentages stated in the competitive analysis, as
21 competitors do not provide their exact data, exchange and town boundaries are not the
22 same, and we rely on our best estimates to determine exactly how many customers a
23 cable company may pass on a particular street or road. There is no doubt, however, from

1 our analysis that each of the exchanges in each of the four companies meets the test that
2 the majority of customers have access to an alternative provider. What is even more
3 important is that significant competition exists at this very moment, and will increase
4 tomorrow. Competition is growing, customers are receiving competitive advertisements
5 daily offering alternative packages and services, and our customers are choosing some of
6 those alternatives.

7 **2. RSA 374:3-b, III (b) – Price Cap for Basic Service**

8 **Q. Have the Companies addressed this criterion?**

9 A. Yes. In his detailed discussion of the Plan, Mr. Ulrich demonstrates that the pricing
10 provisions in the Plan meet the requirements of this section.

11 **3. RSA 374:3-b, III(c) – Innovative Services**

12 **Q. Does the Plan promote the offering of innovative telecommunications services in**
13 **New Hampshire?**

14 A. Yes. The Plan gives the Company the freedom and flexibility to compete on a level
15 playing field with its competitors. This flexibility, combined with heavy competition,
16 will encourage and promote the continued offering of new and creative services and
17 competitive pricing of products. The Company has no choice but to be innovative, invest
18 wisely, and price appropriately. The marketplace, technology and services change daily
19 making it nearly impossible to predict what innovative services the Company will offer
20 during the duration of the Plan. The only thing certain is that the Company must remain
21 competitive to keep its customers and have flexibility similar to its competitors.

22 **Q. Does the Plan include an actual list of innovative services to be offered by TDS?**

1 A. No. As stated above a list is impossible to provide due to rapidly changing technology,
2 consumer demands and competitive offerings. Some examples of services TDS is
3 investigating or testing for possible rollout include
4 . This is not meant to infer
5 that any of these products will be offered in NH or in all of NH, but is offered as an
6 example of TDS' commitment to new, innovative technology. The Plan, as described in
7 Mr. Ulrich's testimony states that TDS commits to maintaining a network that will enable
8 the offering of state-of-the-art, innovative services to its customers by the Companies,
9 their wholesale providers and others. The Companies will maintain their network
10 infrastructure in order to insure the continued availability of reliable, high quality
11 telecommunication services throughout its service territory.
12
13 **Q. Absent details of new or proposed services, how should the Commission track**
14 **adherence to the promotion of innovative services?**
15 A. The Plan includes a list of existing PUC Rules that the Company will adhere to. Included
16 in the Rules are requirements to notify the Commission of any proposed change in prices
17 or services. In addition, the PUC will receive Service Quality reporting. The PUC can
18 also track a number of key items in the annual reports.
19 **Q. Please provide an example of network investment relating to a product or service.**
20 A. An excellent example of network investment and providing what customers are
21 demanding is our DSL deployment. DSL is currently available to approximately % of
22 the customers in MCT, % in KTC, % in WTC and % in HTC.

1 **Q. Are there network investments that are not directly tied to a specific product or**
2 **service that describe the company's commitment to improving reliability, reducing**
3 **costs and adding new technology?**
4 A. Significant examples for each company include the following:
5
6
7
8
9 **Q. Has TDS responded to customer demands through bundling or reduced pricing?**
10 A. TDS has been able to respond by providing bundles, although existing regulation can
11 make this awkward. In areas where TDS is attempting to compete with a cable company
12 who is offering TV, local, LD, etc., TDS has partnered with a satellite TV company to
13 sell that product along with our landline and broadband products. However, under the
14 current form of regulation, TDS has not had the flexibility to bundle regulated and non-
15 regulated services while offering bundled discounts on the regulated portion, such as our
16 competitors can. TDS companies must adhere to maintaining tariffed rates within the
17 bundle. This requirement restricts us from being as competitive or as flexible in our
18 offerings as our competitors. The Plan will assist us in being able to offer more flexible
19 bundles and discount programs.
20 **4. RSA 374:3-b, III (d) – Intercarrier Obligations**
21 **Q. Does the alternative regulation plan meet intercarrier service obligations under**
22 **applicable laws?**

1 A. Yes. As described by Mr. Ulrich, the Companies will continue to provide access services
2 under the Plan and will continue to meet their obligations as incumbent local exchange
3 carriers and rural telephone companies under the Telecommunications Act of 1996.

4 **5. RSA 374:3-b, III(e) – Universal Service**

5 **Q. Does the plan preserve universal access to affordable basic telephone service?**

6 A. Yes, this is also addressed in Mr. Ulrich's discussion of the Plan. In addition to the
7 continued investment in its network to meet customer's needs, TDS will continue in its
8 very important role of carrier of last resort. Competition in every exchange together with
9 the limitations on Basic Service rates under the Plan will ensure that basic telephone
10 service will remain available and affordable. In that regard, the Companies will continue
11 to participate in the federal universal service program and maintain their status as eligible
12 telecommunications carriers under 47 U.S.C. § 254.

13 **6. RSA 374:3-b, III (f) – Modification or Termination**

14 **Q. Does the Plan for each Company provide that if the Company fails to meet any of**
15 **the conditions set out in RSA 374:3-b, the Commission may require the Company to**
16 **propose modifications to the Plan or return to rate of return regulation?**

17 A. Yes, it does. This feature of the Plan is described in the testimony of Mr. Ulrich.

18 **Q. What is the result of your review of the statutory criteria as they relate to these**
19 **Companies and this Plan?**

20 A. I conclude that the Companies meet the eligibility requirements for approval of an
21 alternative form of regulation and that the Plan conforms to the statute.

22 **Q. What are the benefits of the Plan to the customers of the Companies?**

1 A. The benefits to customers include all benefits brought by competition: attractive pricing
2 and bundling, along with the TDS commitment to provide a network that will enable
3 provisioning of innovative services and preserve access to affordable basic telephone
4 service. At the same time, it limits customer risks by limiting basic local rate changes in
5 conjunction with capping basic local service rates. From a customer's point of view this
6 is a "win, win" situation. The company who wants to serve them will have a level
7 playing field to compete with new providers, likely bringing customers better services
8 while assuring the continuance of affordable basic local telephone service. The
9 Commission will continue to monitor the success or failure of the Plan and can act at any
10 time to assure compliance with the provisions of the statute and applicable PUC rules.
11 **Q. Does this conclude your testimony?**
12 A. Yes, it does.
13

[FILED UNDER RSA 378:43]

[FILED UNDER RSA 378:43]

[FILED UNDER RSA 378:43]

[FILED UNDER RSA 378:43]

Attachment E

Competition Summary
Estimated Availability [1]

(Y) Estimated Available to greater than 50% of the customers
(N) Available to 50% or less of the customers

Company	Exchange	Wireless	Cable Broadband	Cable Television	DSL	LNP [2]
MCT						
	Antrim	Y	Y	Y	Y	Y
	Bradford	Y	N	Y	Y	Y
	Contoocook	Y	Y	Y	Y	Y
	Henniker	Y	Y	Y	Y	Y
	Hillsboro	Y	Y	Y	Y	Y
	Melvin Village	Y	Y	Y	N	Y
	Sutton	Y	N	Y	Y	Y
	Warner	Y	N	Y	Y	Y
KTC						
	Andover	Y	N	N	Y	Y
	Boscawen	Y	Y	Y	Y	Y
	Chichester	Y	Y	Y	Y	Y
	Meriden	Y	Y	Y	Y	Y
	New London	Y	Y	Y	Y	Y
	Salisbury	Y	N	N	Y	Y
WTC						
	Wilton	Y	N	Y	Y	Y
HTC						
	Hollis	Y	Y	Y	Y	Y

[1] Availability of wireless service, cable broadband and cable television is an estimate based on available information outlined in testimony, including maps, provider company data and local TDS employee information gathering. DSL availability based on company records, line counts and loop lengths.

[2] LNP is not an estimate; LNP is available to 100% of customers.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
RCC Minnesota, Inc., and RCC Atlantic, Inc.	)	
	)	
Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire	)	
	)	

ORDER

Adopted: October 7, 2005 **Released: October 7, 2005**

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this Order, we grant the petition of RCC Minnesota, Inc. and RCC Atlantic, Inc. (collectively, RCC) to be designated as an eligible telecommunications carrier (ETC) in portions of its licensed service areas in New Hampshire, pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act).[1] We conclude that RCC, a commercial mobile radio service (CMRS) provider, has satisfied the statutory eligibility requirements of section 214(e)(1) to be designated as an ETC.[2]

2. RCC requests ETC designation for its rural and non-rural service areas in New Hampshire as discussed herein.[3] RCC also requests that the Federal Communications Commission (Commission) redefine Granite State Telephone's (Granite) study area in New Hampshire.[4] Specifically,

[1] *See* RCC Minnesota, Inc. and RCC Atlantic, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire, filed May 14, 2004 (RCC Petition). RCC's petition was dated March 12, 2004, but was not received by Office of the Secretary until May 14, 2004. On August 26, 2005, RCC supplemented its filing. *See* RCC Minnesota, Inc. and RCC Atlantic, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire Supplemental Filing, filed Aug. 26, 2005 (RCC Supplement). Later that day, RCC filed a second document. This filing includes a revised Exhibit A to be used in place of Exhibit A in the RCC Supplement. *See* RCC Minnesota, Inc. and RCC Atlantic, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire Second Supplemental Filing, filed Aug. 26, 2005 (RCC Supplemental Map). RCC also filed a revised list of non-rural wire centers to correct certain wire center names. The revised list does not alter the ETC service area boundary. *See* RCC Minnesota, Inc. and RCC Atlantic, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the State of New Hampshire Supplemental Filing, filed Sept. 8, 2005 (RCC Exhibit B (revised)).

[2] 47 U.S.C. § 214(e)(1).

[3] RCC Petition at Exhibits B (revised), C, and D; RCC Supplement at Exhibits C (revised) and D (revised).

[4] RCC Petition at 22-25; RCC Supplement at 1-2 and Exhibit D (revised).

RCC requests that each of Granite's wire centers listed in exhibit D of its petition be classified as a separate service area at the wire center level.[5] We propose to redefine Granite's service area in New Hampshire, subject to agreement by the New Hampshire Public Utilities Commission (New Hampshire PUC). If the New Hampshire PUC does not agree to the proposal to redefine the affected service area, we will reexamine our decision with regard to redefining this service area.

II. BACKGROUND

A. The Act

3. Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support."[6] Pursuant to section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.[7]

4. Section 214(e)(2) of the Act provides state commissions with the primary responsibility for performing ETC designations.[8] Section 214(e)(6), however, directs the Commission, upon request, to designate as an ETC "a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission."[9] Under section 214(e)(6), the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity, so long as the requesting carrier meets the requirements of section 214(e)(1).[10] Before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.[11] The Wireline Competition Bureau (Bureau) has delegated authority to perform ETC designations.[12]

B. Commission Requirements for ETC Designation

5. An ETC petition must contain the following: (1) a certification and brief statement of supporting facts demonstrating that the petitioner is not subject to the jurisdiction of a state commission; (2) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to section 254(c); (3) a certification that the petitioner offers or intends to offer the supported services "either using its own facilities or a combination of its own facilities and resale of

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[5] RCC Petition at 22-25; Exhibit D; RCC Supplement at 1-2, Exhibit D (revised).

[6] 47 U.S.C. § 254(e).

[7] 47 U.S.C. § 214(e)(1).

[8] 47 U.S.C. § 214(e)(2). *See also Promoting Deployment and Subscribership in Unserved Areas, Including Tribal and Insular Areas*, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 15 FCC Rcd 12208, 12255, para. 93 (2000) (*Twelfth Report and Order*).

[9] 47 U.S.C. § 214(e)(6). *See, e.g., Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, 19 FCC Rcd 1563 (2004) (*Virginia Cellular Order*); *Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, CC Docket No. 96-45, 19 FCC Rcd 6422 (2004) (*Highland Cellular Order*).

[10] 47 U.S.C. § 214(e)(6).

[11] *Id.*

[12] *See Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, CC Docket No. 96-45, 12 FCC Rcd 22947, 22948 (1997) (*Section 214(e)(6) Public Notice*). The Wireline Competition Bureau was previously named the Common Carrier Bureau.

another carrier's services;" (4) a description of how the petitioner "advertise[s] the availability of [supported] services and the charges therefor using media of general distribution;" and (5) if the petitioner meets the definition of a "rural telephone company" pursuant to section 3(37) of the Act, the petitioner must identify its study area, or, if the petitioner is not a rural telephone company, it must include a detailed description of the geographic service area for which it requests an ETC designation from the Commission.[13]

6. On June 30, 2000, the Commission released the *Twelfth Report and Order* which, among other things, set forth how a carrier seeking ETC designation from the Commission must demonstrate that the state commission lacks jurisdiction to perform the ETC designation.[14] A carrier seeking designation as an ETC for service provided on non-tribal lands must provide the Commission with an "affirmative statement" from the state commission or a court of competent jurisdiction that the carrier is not subject to the state commission's jurisdiction.[15] The requirement to provide an "affirmative statement" ensures that the state commission has had "a specific opportunity to address and resolve issues involving a state commission's authority under state law to regulate certain carriers or classes of carriers."[16]

7. On January 22, 2004, the Commission released the *Virginia Cellular Order*, which granted in part and denied in part the petition of Virginia Cellular, LLC (Virginia Cellular) to be designated as an ETC throughout its licensed service area in the Commonwealth of Virginia.[17] In that Order, the Commission utilized a new public interest analysis for ETC designations and imposed ongoing conditions and reporting requirements on Virginia Cellular.[18] The Commission stated that the framework in the *Virginia Cellular Order* would apply to all ETC designations for rural areas, pending further action by the Commission.[19]

8. On April 12, 2004, the Commission released the *Highland Cellular Order*, which granted in part and denied in part the petition of Highland Cellular, Inc. (Highland Cellular) to be designated as an ETC in portions of its licensed service area in the Commonwealth of Virginia.[20] In the *Highland Cellular Order*, the Commission concluded, among other things, that a telephone company in a rural study area may not be designated as a competitive ETC below the wire center level.[21] In light of the new ETC designation framework established in the *Virginia Cellular Order*, the Bureau released a public notice

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[13] *See Section 214(e)(6) Public Notice*, 12 FCC Rcd at 22948-49 (1997); 47 U.S.C. § 3(37)*; Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 20 FCC Rcd 6371 (2005), (*ETC Designation Order*); pet. for review filed, *Virginia Cellular LLC v. FCC*, No. 05-1807 (4th Cir.). The *ETC Designation Order* and rules became effective on June 24, 2005. *See* 70 Fed. Reg. 29960 (May 25, 2005) (All rules effective except as noted in the Federal Register Notice). *See also Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, Declaratory Ruling, CC Docket No. 96-45, 15 FCC Rcd 15168 (2000) (*Declaratory Ruling*), recon. pending.

[14] *See Twelfth Report and Order,* 15 FCC Rcd at 12255-65, paras. 93-114.

[15] *Id.* at 12255, para. 93.

[16] *Id.*

[17] *See Virginia Cellular Order*, 19 FCC Rcd at 1564, para. 1.

[18] *See id.* at 1565, 1575-76, 1584-85, paras. 4, 27, 28, 46.

[19] *See id.* at 1565, para. 4.

[20] *See Highland Cellular Order*, 19 FCC Rcd at 6422, para. 1.

[21] *See id.* at 6438, para. 33.

inviting all parties to update the record pertaining to pending ETC petitions.[22]

9. On March 17, 2005, the Commission released the *ETC Designation Order*, generally affirming the holdings of the *Virginia Cellular Order* and *Highland Cellular Order* and adopting additional requirements for ETC designation proceedings in which the Commission acts pursuant to section 214(e)(6) of the Act.[23] All carriers seeking ETC designation from the Commission must satisfy these requirements. ETCs designated by the Commission prior to the *ETC Designation Order* must make such showings when they submit their annual certification filing on October 1, 2006.[24] Carriers that had ETC petitions pending before the *ETC Designation Order* took effect, such as RCC, will also be required to make such showings, should they be designated as ETCs, when they submit their annual certification filing no later than October 1, 2006.[25]

C. RCC's Petition

10. Pursuant to section 214(e)(6) of the Act, RCC filed with this Commission a petition seeking designation as an ETC in study areas served by rural and non-rural incumbent local exchange carriers (LECs) in the state of New Hampshire.[26] In its petition, RCC also requests that Granite's study area be redefined so that each wire center is a separate service area.[27] On May 21, 2004, the Bureau released a public notice inviting parties to comment on RCC's Petition.[28] Several parties filed comments addressing RCC's Petition.[29] In addition, Verizon and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) filed comments generally addressing the six ETC petitions, including RCC's Petition, listed on the *May 21 Bureau Public Notice*.[30]

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[22] *See Parties are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, Public Notice, CC Docket 96-45, 19 FCC Rcd 6409 (Wireline Comp. Bur. 2004) (*Bureau Public Notice*). Applicants were allowed to supplement their petitions by May 14, 2004. Comments were due on May 28, 2004 and reply comments were due on June 4, 2004.

[23] *See ETC Designation Order*, 20 FCC Rcd 6371.

[24] *See ETC Designation* Order, 20 FCC Rcd at 6380, para. 20.

[25] *See ETC Designation Order*, 20 FCC Rcd at 6418-6421, Appendix A – Final Rules, 47 C.F.R. § 54.202(b); 70 Fed. Reg. 29960 (May 25, 2005).

[26] *See* RCC Petition; RCC Supplement.

[27] RCC Petition at 22-25 and Supplement at Exhibit D (revised).

[28] *See Parties are Invited to Comment on Petition for Eligible Telecommunications Carrier Designation*, Public Notice, CC Docket No. 96-45, 19 FCC Rcd 9060 (Wireline Comp. Bur. 2004) (*May 21 Bureau Public Notice*). Comments were due on June 21, 2004 and reply comments were due on July 6, 2004.

[29] *See* CTIA Comments, filed June 21, 2004 (CTIA Comments); New Hampshire Rural Carriers Group Comments, filed June 21, 2004 (New Hampshire RCG Comments); TDS Telecommunications, Corp. Comments, filed June 21, 2004 (TDS Comments); RCC Minnesota, Inc. and RCC Atlantic, Inc. Reply Comments, filed July 6, 2004 (RCC Reply Comments).

[30] *See* Verizon Comments, filed June 21, 2004 (Verizon Comments); Organization for the Promotion and Advancement of Small Telecommunications Companies Reply Comments, filed July 6, 2004 (OPASTCO Reply Comments). The Bureau addressed issues raised in Verizon's comments in response to similar comments filed by Verizon in the *ETC Designation Order* and the *NTELOS Order*. *See ETC Designation Order*, 20 FCC Rcd at 6395-96, para. 54; *Virginia PSC Alliance, L.C. and Richmond 20 MHZ LLC d/b/a NTELOS,* Order, CC Docket No. 96045, DA 05-1663, paras. 9, 17-18 (Wireline Comp. Bur. Rel. June 14, 2005) (*NTELOS Order*). Several other commenters contend that the Commission should not act on pending ETC petitions until the Commission addresses issues raised in the ETC designation proceeding. *See* OPASTCO Reply Comments at 1-4; New Hampshire RCG Comments at 1-5; Verizon Comments at 2-7; TDS Comments at 2-7. However, as discussed in the *NTELOS Order*, the Bureau declined to delay ruling on pending ETC petitions. *See NTELOS Order* at para. 17. Similarly, the

(continued....)

III. DISCUSSION

11. We find that RCC has met all the requirements set forth in section 214(e)(1) and (e)(6) to be designated as an ETC for portions of its licensed service area described herein. We therefore designate RCC as an ETC for the parts of its licensed service area in rural and non-rural service areas of New Hampshire as set forth below. We note, however, that RCC is required to make the additional showings set forth in the *ETC Designation Order* when it submits its annual certification filing on October 1, 2006.[31] In areas where RCC's proposed service area does not cover the entire study area of a rural telephone company, RCC's ETC designation shall be subject to the New Hampshire PUC's agreement with our new definition for the rural telephone company service areas. In all other areas, as described herein, RCC's ETC designation is effective immediately.

A. Commission Authority to Perform the ETC Designation

12. We find that RCC has demonstrated that the Commission has authority to consider its petition under section 214(e)(6) of the Act.[32] RCC's Petition includes an affirmative statement from the New Hampshire PUC that designation as an ETC should be sought from the Commission.[33]

B. Offering and Advertising the Supported Services

13. Offering the Services Designated for Support. RCC has demonstrated through the required certifications and related filings that it now offers, or will offer upon designation as an ETC, the services supported by the federal universal service mechanism.[34] RCC is authorized to provide CMRS service throughout the majority of the state of New Hampshire.[35] RCC certifies that it now provides or will provide throughout its designated service area the services and functionalities enumerated in section 54.101(a) of the Commission's rules.[36] RCC has also certified that, in compliance with rule section 54.405, it will make available and advertise Lifeline service to qualifying low-income consumers.[37] Specifically, RCC will advertise the availability of Lifeline and Link-Up benefits throughout its service

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(...continued from previous page)
Bureau has already addressed commenters' concerns that additional competitive ETCs could have a significant impact on the access plan charges established by the *CALLS Order* and determined that the CALLS plan is functioning as contemplated. *NTELOS Order* at para. 18. *See* Verizon Comments at 2-7. *See Access Charge Reform*, Sixth Report and Order, CC Docket Nos. 96-262 and 94-1, Report and Order, CC Docket No. 99-249, Eleventh Report and Order, CC Docket No 96-45, 15 FCC Rcd 12962 (2000) (*CALLS Order*) (*subsequent history omitted*).

[31] *See ETC Designation Order*, 20 FCC Rcd at 6380, para. 20.

[32] 47 C.F.R. § 214(e)(6).

[33] RCC Petition at 3-4 and Exhibit H at 13-14 (citing a December 5, 2004 order by the New PUC stating that it does not have jurisdiction to make ETC designations for cellular providers.).

[34] RCC Petition at 4-7; CTIA Comments at 3-4.

[35] *Id.* at 2-3. The New Hampshire RCG contends that RCC is not providing required E911 services in New Hampshire. New Hampshire RCG Comments at 5-8. RCC, however, states that it has deployed Phase I and Phase II E-911 in every area of New Hampshire in which it received a request from a public safety answering point. *See* RCC Reply Comments at 3-4.

[36] *Id.* at 4-5 and Exhibit E (Declaration of Elizabeth L. Kohler, Vice President, Legal Services for Rural Cellular Corporation, the parent company of affiliates RCC Minnesota, Inc., and RCC Atlantic, Inc.)

[37] *Id.* at 7; 47 C.F.R. § 54.405. ETCs must comply with state requirements in states that have Lifeline programs. *See Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 03-109, 19 FCC Rcd 8302, 8320 at para. 29 (2003).

area by advertising and reaching out to community health, welfare, and employment offices to provide information to those people most likely to qualify for Lifeline and Link-Up benefits.[38]

14. Furthermore, RCC has committed to comply with the CTIA Consumer Code for Wireless Service.[39] RCC also states that it will commit to the conditions outlined in the *Virginia Cellular Order*.[40] These conditions include, but are not limited to: (1) annual reporting of progress towards build-out plans, unfulfilled service requests, and complaints per 1,000 handsets; and (2) specific commitments to provide service to requesting customers in the area for which it is designated, including those areas outside existing network coverage.[41]

15. Given the importance of public safety, we condition this ETC designation on RCC's compliance with the E911 requirements. To demonstrate compliance with this condition, RCC must obtain a certification from each Safety Answering Point (PSAP) where it provides service confirming that RCC provides its customers with access to basic and E911 service. RCC must furnish copies of these certifications to the Commission upon request.

16. Offering the Supported Services Using a Carrier's Own Facilities. RCC has demonstrated that it satisfies the requirement of section 214(e)(1)(A) that it offer the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.[42] RCC states that it will provide the supported services using its existing network infrastructure, which includes the same antenna, cell-cite, tower, trunking, mobile switching, and interconnection facilities used to service its existing CMRS customers.[43]

17. Advertising Supported Services. RCC has demonstrated that it satisfies the requirements of section 214(e)(1)(B) to advertise the availability of the supported services and the related charges "using media of general distribution."[44] Specifically, RCC states that its methods of advertising may include newspaper, magazine, direct mailings, public exhibits and displays, bill inserts, and telephone directory advertising.[45] As discussed above, RCC also states that it will advertise the availability and terms and conditions of Lifeline and Link-Up programs targeting eligible consumers in its service area.[46]

C. Public Interest Analysis

18. As explained below, we conclude that it is consistent with the public interest, convenience,

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[38] RCC Petition at 7.

[39] RCC Petition at 21-22

[40] *Id.*

[41] *Id. citing Virginia Cellular Order*, 19 FCC Rcd at 1584-85, para. 46. Pursuant to the *ETC Designation Order*, the first report would be filed with the Commission on October 1, 2006, and thereafter annually on October 1 of each year. *See ETC Designation Order*, 20 FCC Rcd at 6401-6403; 47 C.F.R. § 52.209(b). *See also* RCC Reply Comment at 4-8. Commenters contend that RCC's build-out plan does not meet the standards established in the *Virginia Cellular Order*. *See* New Hampshire RCG Comments at 11; TDS Comments at 8. RCC, however, has committed to following the conditions outlined in the *Virginia Cellular Order*. *See RCC* Petition at 21-22; RCC Reply Comments at 4-8.

[42] 47 C.F.R. § 214(e)(1)(A).

[43] RCC Petition at 7.

[44] 47 C.F.R. § 214(e)(1)(B).

[45] RCC Petition at 7.

[46] RCC Petition at 7. *See also* para. 13 *supra*.

and necessity to designate RCC as an ETC throughout its licensed rural and non-rural service areas in the state of New Hampshire as specified herein.[47] In determining whether the public interest is served, the Commission places the burden of proof upon the ETC applicant.[48] We conclude that RCC has satisfied the burden of proof in establishing that its universal service offering in New Hampshire will provide benefits to rural and non-rural consumers.

19. Non-Rural Study Areas. We conclude it that it is consistent with the public interest, convenience, and necessity to designate RCC as an ETC in New Hampshire for the portion of its requested service area that is served by the non-rural telephone company, Verizon New England, Inc. (Verizon).[49] In the *Virginia Cellular Order* and the *Highland Cellular Order*, the Commission determined that designation of an additional ETC in a non-rural telephone company's study area based merely upon a showing that the requesting carrier complies with section 214(e)(1) of the Act does not necessarily satisfy the public interest in every instance.[50] We conclude that RCC's public interest showing is sufficient because of the detailed commitments it has made to ensure that it will provide high quality service throughout the proposed rural and non-rural service areas, including its commitments that it will comply with the conditions outlined in the *Virginia Cellular Order*[51] and that it will use high-cost support to construct new facilities and improve existing facilities in New Hampshire.[52] These commitments are the same or similar to those deemed sufficient for carriers seeking ETC designation in areas served by rural carriers. The public interest standard for designating an ETC in an area served by a rural carrier is at least as stringent as the standard for designating an ETC in an area served by a non-rural carrier.[53]

20. Rural Study Areas. We conclude that it is consistent with the public interest, convenience, and necessity to designate RCC as an ETC for the portions of its requested service area that is served by rural telephone companies, as described herein.[54] In considering whether designation of RCC as an ETC in these areas will serve the public interest, we consider whether the benefits of an additional ETC in the wire centers for which RCC seeks designation outweigh any potential harms. Specifically, we weigh the benefits of increased competitive choice, the unique advantages and disadvantages of the competitor's service offering, any commitments made regarding quality of telephone service, the competitive ETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame, and the impact of the ETC designation on the universal service fund.[55]

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[47] 47 U.S.C. § 214(e)(6). *See* Appendices A, B, attached (listing wire centers).

[48] *See Virginia Cellular Order*, 19 FCC Rcd at 1574-75, para. 26; *Highland Cellular Order*, 19 FCC Rcd at 6431, para. 20.

[49] 47 U.S.C. § 214(e)(6). *See* Appendix B, attached (listing wire centers).

[50] *See Virginia Cellular Order*, 19 FCC Rcd at 1575, para. 27; *Highland Cellular Order*, 19 FCC Rcd at 6431-32, para. 21.

[51] RCC Petition at 21-22; *Virginia Cellular Order*, 19 FCC Rcd at 1584-85, para. 46.

[52] RCC Petition at 12, 21.

[53] Section 241(e)(6) of the Act provides that, consistent with the public interest, convenience and necessity, the Commission *may* designate more than one carrier as an ETC in an area served by a rural telephone company and *shall* do so in the case of all other areas. *See* 47 U.S.C § 241(e)(6).

[54] *See* RCC Petition at 8-22; RCC Supplement at Exhibit C (revised); Appendix B, attached (listing wire centers).

[55] *See, e.g.*, *Highland Cellular Order*, 19 FCC Rcd at 6432-35, paras. 22-28; *Virginia Cellular Order*, 19 FCC Rcd at 1575-79, para. 28-34. Although we are concerned about growth of the fund, and ensuring that the fund is sustainable, there is no evidence that designating RCC as an ETC will have a dramatic impact on the fund such that it would justify deviating from prior decisions and practices in this instance. *See* USAC Federal Universal Support Mechanism, Fund Size Projection for the Fourth Quarter, 2005 (Aug. 2, 2005),

21. We find that RCC's universal service offering will provide benefits to customers in situations where they do not have access to a wireline telephone. Also, the mobility of RCC's wireless service will provide other benefits to consumers. For example, the mobility of telecommunications assists consumers in rural areas who often must drive significant distances to places of employment, stores, schools, and other locations. The availability of a wireless universal service offering also provides access to emergency services that can mitigate the unique risks of geographic isolation associated with living in rural communities.[56] We also find that the commitments RCC has made to ensure that it provides high quality service throughout the proposed rural and non-rural service areas, including its plans to bring new and/or improved wireless services to the communities in or around Littleton, Plymouth, Lyme, and Rollinsford, will provide benefits to customers in New Hampshire.[57] In addition, RCC will comply with CTIA's Consumer Code for Wireless Service.[58] RCC also agrees to report to the Commission annually on the number of consumer complaints per 1,000 mobile handsets.[59] RCC will also annually submit information detailing how many requests for service from potential customers were unfulfilled for the past year.[60]

22. We conclude that the designation of RCC as an ETC in the study areas served by the rural telephone companies does not raise concerns about creamskimming. Rural creamskimming occurs when competitors seek to serve only the low cost, high revenue customers in a rural telephone company's study area.[61] RCC, however, requests ETC designation in all but one rural service area in New Hampshire.[62] Thus, RCC will not be serving only low-cost areas to the exclusion of high cost areas.[63] Because RCC seeks to serve the vast majority of the state, designation of RCC as an ETC in New Hampshire does not create creamskimming concerns. Thus, we find that designation of RCC as an ETC in New Hampshire is in the public interest.[64]

D. Designated Service Areas

23. We designate RCC as an ETC in the state of New Hampshire in the requested areas served by the non-rural telephone company Verizon, as listed in Appendix A. We designate RCC as an ETC in the State of New Hampshire for the requested areas served by the rural telephone companies, as listed in Appendix B. Subject to the New Hampshire PUC's agreement on redefining the service areas served by the rural telephone company Granite we also designate RCC as an ETC for the wire centers in Appendix C.

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[56] *See Virginia Cellular Order*, 19 FCC Rcd at 1576, para. 29; RCC Petition at 13-14; CTIA Comments at 5.

[57] RCC Petition at 12.

[58] RCC Petition at 21-22.

[59] *Id.*

[60] *Id.*

[61] *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 12 FCC Rcd 87, 179-180, para. 172 (1996) ("*1996 Recommended Decision*").

[62] RCC Petition at 18.

[63] CTIA Comments at 6.

[64] *See Public Service Cellular, Inc.*, CC Docket No. 96-45, Order, 20 FCC Rcd 4258, 5864, para. 28 (Wireline Comp. Bur. 2005) (*PSC Order*); *Advantage Cellular Systems, Inc.*, CC Docket No. 96-45, Order, 19 FCC Rcd 20985, 20994, para. 22 (Wireline Comp. Bur. 2004) (*Advantage Cellular Order*).

E. Redefining Rural Company Service Areas

24. In order to designate RCC as an ETC in a service area that is different from the affected rural telephone company study area, we must redefine the service area of the rural telephone company in accordance with section 214(e)(5) of the Act.[65] Under section 214(e)(5), "[i]n the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company."[66] Under section 54.207(d)(1), the Commission must petition a state commission with the proposed definition according to that state commission's procedures.[67] In that petition, the Commission must provide its proposal for redefining the service area and its decision presenting reasons for adopting the new definition, including an analysis that takes into account the recommendations of the Federal-State Joint Board on Universal Service (Joint Board).[68] When the Joint Board recommended that the Commission retain the current study areas of rural telephone companies as the service areas for the rural telephone companies, the Joint Board made the following observations: (1) the potential for creamskimming is minimized by retaining study areas because competitors, as a condition of eligibility, must provide services throughout the rural telephone company's study area; (2) the Act, in many respects, places rural telephone companies on a different competitive footing from other local telephone companies; and (3) there would be an administrative burden imposed on rural telephone companies by requiring them to calculate costs at something other than the study area level.[69]

25. In this case, however, we find that redefining Granite's service area as proposed will not impose administrative burdens on the rural LEC because it will not require it to determine its costs on any basis other than the study area level.[70] Moreover, as discussed above, we conclude that redefining Granite's service area at the wire center level should not result in opportunities for creamskimming.[71] RCC is not picking and choosing which Granite exchanges it will serve. Rather, RCC will be serving all of Granite's wire centers in RCC's licensed study area.[72] We also note that the redefinition of this service area, and designation of RCC as an ETC, will allow RCC to provide services to the least densely populated areas at issue and thus RCC is unlikely to compete with the incumbent LEC only in the lowest cost areas.[73] Finally, we find no evidence that the proposed redefinition will harm the incumbent carrier's service area because redefining Granite's service area will not change the amount of universal service support that is available to the incumbents.[74] Thus, consistent with prior rural service area redefinitions and with the recommendations of the Joint Board, we redefine each wire center as requested by RCC as a

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[65] 47 U.S.C. § 214(e)(5).

[66] *Id.*

[67] 47 C.F.R. § 54.207(d)(1).

[68] *Id.*

[69] *See 1996 Recommended Decision,* 12 FCC Rcd at 179-80, paras. 172-74.

[70] *See Virginia Cellular Order*, 19 FCC Rcd at 1583, para. 44.

[71] *See Virginia Cellular Order*, 19 FCC Rcd at 1582-83, para. 42. We note that any future competitive ETC designation for Granite's redefined service would continue to require a finding that such designation is in the public interest, including an analysis of whether such designation would result in creamskimming. *See* para 21, *supra.*

[72] RCC Petition at 23.

[73] RCC Petition at 24-25 and Exhibit I. RCC serves the three least populous of Granite's four rural wire centers.

[74] *See Virginia Cellular Order*, 19 FCC Rcd at 1583, para. 43.

separate service area.[75]

26. Our decision to redefine the Granite's service area is subject to the review and final agreement of the New Hampshire PUC in accordance with applicable requirements under section 54.207 of our rules. Accordingly, we submit our redefinition proposal to the New Hampshire PUC and request that it examine such proposal based on its unique familiarity with the rural areas in question. Upon the effective date of the agreement of the New Hampshire PUC with our redefinition of Granite's service area, our designation of RCC as an ETC in the areas served by Granite, as set forth herein, shall also take effect. If, after its review, the New Hampshire PUC determines that it does not agree with the redefinition proposal herein, we will reexamine RCC's Petition with regard to redefining new service areas of Granite.

F. Regulatory Oversight

27. We note that RCC is obligated under section 254(e) of the Act to use high-cost support "only for the provision, maintenance, and upgrading of facilities and services for which support is intended" and is required under section 54.313 of the Commission's rules to certify annually that it is in compliance with this requirement.[76] RCC has certified to the Commission that, consistent with section 54.313 of the Commission's rules, all federal high-cost support will be "used for the provision, maintenance and upgrading of facilities and services for which the support is intended, pursuant to Section 254(e)" of the Act in the area for which RCC is designated as an ETC.[77]

28. Separate and in addition to its annual certification filing under rule section 54.313, RCC has committed to submit records and documentation on an annual basis detailing: (1) its progress towards meeting its build-out plans; (2) the number of complaints per 1,000 handsets; and (3) information detailing how many requests for service from potential customers were unfulfilled for the past year.[78] We require RCC to submit these additional data to the Commission and the Universal Service Administrative Company (USAC) on October 1 of each year, beginning October 1, 2006.[79] We find that reliance on RCC's commitments is reasonable and is consistent with the public interest, the Act, and the Fifth Circuit decision in *Texas Office of Public Utility Counsel v. FCC*.[80] We conclude that fulfillment of these additional reporting requirements will further the Commission's goal of ensuring that RCC satisfies its ongoing obligation under section 214(e) of the Act to provide supported services throughout its designated service area.

29. We note that the Commission may institute an inquiry on its own motion to examine any ETC's records and documentation to ensure that the high-cost support it receives is being used "only for

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[75] *See Federal State Board on Universal Service, RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama,* CC Docket No. 96-45, Memorandum Opinion and Order, 17 FCC Rcd 23532, 23547, para. 37 (2002). *See also* RCC Petition at 22-25; RCC Supplement at 1-2 and Exhibit D (revised). The New Hampshire RCG contends that in its premature for RCC to seek redefinition of Granite's service area because it does not yet serve that area. *See* New Hampshire RCG Comments at 14-15. RCC, however, is properly seeking redefinition before entering Granite's service area.

[76] 47 C.F.R. § 54.313.

[77] RCC Petition at 10 and Exhibit F.

[78] *See* RCC Petition at 21-22.

[79] RCC's initial submission concerning consumer complaints per 1,000 handsets and unfulfilled service requests will include data from the date ETC designation is granted through June 30, 2006. Future submissions concerning consumer complaints and unfulfilled service requests will include data from July 1 of the previous calendar year through June 30 of the reporting calendar year.

[80] *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 417-18 (5th Cir. 1999).

the provision, maintenance, and upgrading of facilities and services" in the areas where it is designated as an ETC.[81] RCC will be required to provide such records and documentation to the Commission and USAC upon request. We further emphasize that if RCC fails to fulfill the requirements of the statute, the Commission's rules, or the terms of this Order after it begins receiving universal service support, the Commission has authority to revoke its ETC designation.[82] The Commission also may assess forfeitures for violations of Commission rules and orders.[83]

IV. ANTI-DRUG ABUSE ACT CERTIFICATION

30. Pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, no applicant is eligible for any new, modified, or renewed instrument of authorization from the Commission, including authorizations issued pursuant to section 214 of the Act, unless the applicant certifies that neither it, nor any party to its application, is subject to a denial of federal benefits, including Commission benefits.[84] This certification must also include the names of individuals specified by section 1.2002(b) of the Commission's rules.[85] RCC has provided a certification consistent with the requirements of the Anti-Drug Abuse Act of 1988.[86] We find that RCC's certification satisfies the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001-1.2003 of the Commission's rules.[87]

V. ORDERING CLAUSES

31. Accordingly, IT IS ORDERED that, pursuant to the authority contained in section 214(e)(6) of the Communications Act, 47 U.S.C. § 214(e)(6), and the authority delegated in sections 0.91 and 0.291 of the Commission's Rules, 47 C.F.R. §§ 0.91, 0.291, RCC Minnesota, Inc. and RCC Atlantic, Inc. IS DESIGNATED AN ELIGIBLE TELECOMMUNICATIONS CARRIER for portions if its licensed service are in the state of New Hampshire, to the extent described herein.

32. IT IS FURTHER ORDERED that, pursuant to the authority contained in section 214(e)(5) of the Communications Act, 47 U.S.C. § 214(e)(5), and sections 54.207(d) and (e) of the Commission's rules, 47 C.F.R. §§ 54.207(d) and (e), the request of RCC Minnesota, Inc. and RCC Atlantic, Inc. to redefine the service area of Granite State Telephone, Inc. IS GRANTED to the extent described herein and SUBJECT TO the agreement of the New Hampshire Public Utilities Commission with the Commission's redefinition of the service area.

33. IT IS FURTHER ORDERED that RCC Minnesota, Inc. and RCC Atlantic, Inc. will submit additional information in support of its ETC status, consistent with the *ETC Designation Order*, with its annual certification filing on October 1, 2006.

34. IT IS FURTHER ORDERED that a copy of this Order SHALL BE transmitted by the

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[81] 47 U.S.C. §§ 220, 403; 47 C.F.R. § 54.313.

[82] *See Declaratory Ruling*, 15 FCC Rcd at 15174, para. 15. *See also* 47 U.S.C. § 254(e).

[83] *See* 47 U.S.C. § 503(b).

[84] 47 U.S.C. § 1.2002(a); 21 U.S.C. § 862.

[85] *See ETC Procedures PN*, 12 FCC Rcd at 22949. Section 1.2002(b) provides that a "party to the application" shall include: "(1) If the applicant is an individual, that individual; (2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting/and or non-voting) of the petitioner; and (3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership." 47 C.F.R. § 1.2002(b).

[86] *See* RCC Petition at 25 and Exhibit G.

[87] 47 C.F.R. §§ 1.2001-2003.

Wireline Competition Bureau to the New Hampshire Public Utilities Commission and the Universal Service Administrative Company.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Navin
Chief, Wireline Competition Bureau

Appendix A

Non-Rural Wire Centers for Inclusion in RCC's New Hampshire ETC Service Area

Service Area	Wire Center Name	Wire Center Code
Verizon New England, Inc.	Alstead	ALSTNHLI
Verizon New England, Inc.	Ashland	ASLDNHHI
Verizon New England, Inc.	Barrington (partial)	BNTONHPR
Verizon New England, Inc.	Bartlett	BRTLNHGE
Verizon New England, Inc.	Bedford	BDFRNHAM
Verizon New England, Inc.	Belmont	BLMTNHMA
Verizon New England, Inc.	Berlin	BRLNNHHE
Verizon New England, Inc.	Bethlehem	BHLHNHCR
Verizon New England, Inc.	Berwick (partial)	SMRSNHHI
Verizon New England, Inc.	Bristol	BRSTNHSP
Verizon New England, Inc.	Campton	CMTNNHOW
Verizon New England, Inc.	Campton	WVVYNHMR
Verizon New England, Inc.	Canaan	CANNNHYA
Verizon New England, Inc.	Candia (partial)	CANDNHDE
Verizon New England, Inc.	Canterbury	CNTRNHSH
Verizon New England, Inc.	Center Harbor	CNHRNHPL
Verizon New England, Inc.	Charleston	CHTWNHBR
Verizon New England, Inc.	Claremont (partial)	CLMTNHBR
Verizon New England, Inc.	Concord	CNCRNHSO
Verizon New England, Inc.	Conway	CNWYNHYA
Verizon New England, Inc.	Center Ossipee	CNOSNHFO
Verizon New England, Inc.	Center Sandwich	MLBONHYA
Verizon New England, Inc.	Center Sandwich	CNSWNHSL
Verizon New England, Inc.	Danbury	DNBRNHDB
Verizon New England, Inc.	Dover/Eliot	DOVRNHTH
Verizon New England, Inc.	Dublin	DBLNNHMO
Verizon New England, Inc.	Durham	DRHMNHMC
Verizon New England, Inc.	Enfield	ENFDNHNM

Verizon New England, Inc.	Epping (partial)	EPNGNHMA
Verizon New England, Inc.	Epsom	EPSMNHBH
Verizon New England, Inc.	Farmington	FRTNNHMG
Verizon New England, Inc.	Fitzwilliam	FTZWNHUT
Verizon New England, Inc.	Franconia	FRNCNHWH
Verizon New England, Inc.	Franklin	FKLNNHFR
Verizon New England, Inc.	Glendale	GLDLNHAB
Verizon New England, Inc.	Goffstown	GFTWNHWH
Verizon New England, Inc.	Gorham (partial)	GRHMNHLA
Verizon New England, Inc.	Greenfield	GNFDNHMA
Verizon New England, Inc.	Greenville	GNVLNHAD
Verizon New England, Inc.	Groveton (partial)	GVTNNHST
Verizon New England, Inc.	Hancock	HNCCNHSC
Verizon New England, Inc.	Hanover (partial)	HNVRNHSC
Verizon New England, Inc.	Harrisville	HRVLNHMA
Verizon New England, Inc.	Hinsdale	HNDLNHMA
Verizon New England, Inc.	Jackson	JCSNNHTH
Verizon New England, Inc.	Jaffrey	JFRYNHRI
Verizon New England, Inc.	Jefferson	JFSNNHYA
Verizon New England, Inc.	Keene	KEENNHWA
Verizon New England, Inc.	Kittery (partial)	PTMONHIS
Verizon New England, Inc.	Laconia	LACNNHNM
Verizon New England, Inc.	Lancaster	LNCSNHHI
Verizon New England, Inc.	Lebanon	LBNNNHBA
Verizon New England, Inc.	Lemington	CLBKNHMA
Verizon New England, Inc.	Lisbon	LSBNNHMA
Verizon New England, Inc.	Littleton	LTTNNHPL
Verizon New England, Inc.	Lyme (partial)	LYMENHYA
Verizon New England, Inc.	Madison	MDSNNHYA
Verizon New England, Inc.	Manchester (partial)	MNCHNHCO
Verizon New England, Inc.	Marlborough	MRBONHYA

Verizon New England, Inc.	Marlow	MRLWNHYA
Verizon New England, Inc.	Meredith	MRDTNHWA
Verizon New England, Inc.	Merrimack	MRMCNHYA
Verizon New England, Inc.	Milan (partial)	MILNNHPL
Verizon New England, Inc.	Milford	MLFRNHSO
Verizon New England, Inc.	Milton Mall	MTMLNHWE
Verizon New England, Inc.	Barnet (partial)	BARNVTCH
Verizon New England, Inc.	Nashua	NASHNHGR
Verizon New England, Inc.	Nashua	NASHNHWP
Verizon New England, Inc.	New Boston	NBTNNHHP
Verizon New England, Inc.	New Market (partial)	NWMRNHGE
Verizon New England, Inc.	Newport	NWPTNHMA
Verizon New England, Inc.	North Conway	NCWYNHKE
Verizon New England, Inc.	North Haverhill	NHHLNHDL
Verizon New England, Inc.	North Stratford (partial)	NSFRNHMA
Verizon New England, Inc.	Bellows Falls (partial)	BLFLVTHE
Verizon New England, Inc.	North Woodstock	NWDSNHMA
Verizon New England, Inc.	Fairlee (partial)	FARLVTML
Verizon New England, Inc.	Pelham	PLHMNHBR
Verizon New England, Inc.	Penacook	PNCKNHCH
Verizon New England, Inc.	Peterborough	PTRBNHCO
Verizon New England, Inc.	Bradford (partial)	BRFRVTPG
Verizon New England, Inc.	Pike	PIKENHPI
Verizon New England, Inc.	Pittsburg (partial)	PSBGNHMA
Verizon New England, Inc.	Pittsfield	PTFDNHBR
Verizon New England, Inc.	Plainfield (partial)	PLFDVTYA
Verizon New England, Inc.	Plymouth	PLMONHLH
Verizon New England, Inc.	Rindge	RNDGNHCE
Verizon New England, Inc.	Rochester/So. Lebanon (partial)	ROCHNHWE
Verizon New England, Inc.	Rumney	RMNYNHSL
Verizon New England, Inc.	Sanbornville	SBVLNHCS

Verizon New England, Inc.	Spofford	SPFRNHMS
Verizon New England, Inc.	Sullivan	SLLVNHYA
Verizon New England, Inc.	Sunapee	SUNPNHMC
Verizon New England, Inc.	Suncook	SNCKNHPA
Verizon New England, Inc.	Tamworth	TMWONHWH
Verizon New England, Inc.	Tilton	TLTNNHPR
Verizon New England, Inc.	Troy	TROYNHPR
Verizon New England, Inc.	Twin Mount	TWMTNHYA
Verizon New England, Inc.	Walpole (partial)	WLPLNHWP
Verizon New England, Inc.	Warren	WRRNNHMA
Verizon New England, Inc.	West Stewart Station	WSTWNHBS
Verizon New England, Inc.	Windsor	WNDSVTPI
Verizon New England, Inc.	Weirs	WERSNHST
Verizon New England, Inc.	Wellsriver	WDVLNHJL
Verizon New England, Inc.	Westmoreland	WMLDNHWE
Verizon New England, Inc.	Brattleboro (partial)	BRBOVTMA
Verizon New England, Inc.	West Lebanon (partial)	MLTNNHSI
Verizon New England, Inc.	White River Junction	WRJTVTGA
Verizon New England, Inc.	Whitefield	WHFDNHPL
Verizon New England, Inc.	Winchester	WNCHNHMI
Verizon New England, Inc.	Wilson's Mill (partial)	ERRLNHYA
Verizon New England, Inc.	Wolfeboro	WLBONHGS

APPENDIX B

Rural Wire Centers for Inclusion in RCC's New Hampshire ETC Service Area

Service Area	Wire Center Name	Wire Center Code
Bretton Woods Tel Co	Bretton Woods	BTWDNHXA
Dixville Tel Co	Dixville Notch	DXNTNHXA
Dunbarton Tel Co	Dunbarton	DNTNNHXA
Hollis Tel Co	Hollis	HLLSNHXA
Kearsarge Tel Co	Andover	ANDVNHXA
Kearsarge Tel Co	Boscawen	BSCWNHXA
Kearsarge Tel Co	Chichester	CHCHNHXA
Kearsarge Tel Co	New London	NWLNNHXA
Kearsarge Tel Co	Salisbury	SLBRNHXA
Merrimack County Tel Co d/b/a Contoocook Valley	Antrim	ANTRNHXA
Merrimack County Tel Co d/b/a Contoocook Valley	Henniker	HNKRNHXA
Merrimack County Tel Co d/b/a Contoocook Valley	Hillsboro	HLBONHXA
Merrimack County Tel Co d/b/a Contoocook Valley	Melvin Village	MLVGNHXA
Merrimack County Tel Co	Bradford	BRFRNHXA
Merrimack County Tel Co	Contoocoook	CNTCNHXA
Merrimack County Tel Co	Sutton	STTNNHXA
Merrimack County Tel Co	Warner	WRNRNHXA
Northland Telephone of Maine, Inc.	Fryeburg	FRBGMEXA
Northland Telephone of Maine, Inc.	North Fryeburg	NFBGMEXA
Union Tel Co - New Hampshire	Alton	ALTNNHXA
Union Tel Co - New Hampshire	Barnstead	BRNSNHXA
Union Tel Co - New Hampshire	Center Barnstead	CNBNNHXA
Union Tel Co - New Hampshire	Ctr. Sandwich	GLTNNHXA

Union Tel Co - New Hampshire	New Durham	NWDRNHXA
Wilton Tel Co	Wilton	WLTONHXA

APPENDIX C

RURAL SERVICE AREAS REQUIRING RECLASSIFICATION ALONG WIRE CENTER BOUNDARIES

Service Area	Wire Center Name	Wire Center Code	Inside Proposed ETC Area (Y/N)
Granite State Telephone, Inc.	Hillsburg Village	HUVGNHXA	Y
Granite State Telephone, Inc.	Chester	CHESNHXA	N
Granite State Telephone, Inc.	Weare	WEARNHXA	Y
Granite State Telephone, Inc.	Washington	WASHNHXA	Y

BEFORE THE STATE OF
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

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

Q. Please state your name and business address.

A. My name is Timothy W. Ulrich and my business address is 525 Junction Road, Madison, Wisconsin 53717.

Q. By whom are you employed and in what capacity?

A. I am employed by TDS Telecom ("TDS") as Manager - Public Policy in TDS' Government and Regulatory Affairs department. Since starting my employment with TDS in March 1999, my major responsibility has been to evaluate alternative forms of regulation in the 28 states, including New Hampshire, in which TDS' Incumbent Local Exchange Carrier ("ILEC") subsidiaries operate. My responsibilities also include assisting in the management of state and federal regulatory, legislative and industry relations for all TDS ILEC companies.

Q. Please describe your educational and professional background.

A. I received a Bachelor of Science degree in Business Administration (major in finance and minor in economics) from the University of Florida in 1979 and was awarded a Masters of Business Administration (emphasis in economics) degree from Creighton University in 1986. I also completed the NARUC Annual Regulatory Studies Program at Michigan State University in August 1991.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. What are the goals of the Plan?

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

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

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

Q. How does the Plan achieve these goals?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. What is the term of the Plan?

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

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

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

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

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

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

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

Q. Does this conclude your direct testimony?

A. Yes, it does.