

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

**Kearsarge Telephone Company, Merrimack County
Telephone Company, Wilton Telephone Company
and Hollis Telephone Company
Petition for an Alternate Form of Regulation**

DT 07-027

PETITION TO INTERVENE
OF COMCAST PHONE OF NEW HAMPSHIRE, LLC

1. Pursuant to RSA 541-A:32 and PUC 203.17, Comcast Phone of New Hampshire, LLC (“Comcast Phone”) seeks to intervene in this proceeding to provide evidence on the extent of competition in the exchanges served by the TDS Telecom companies that are the petitioners in this proceeding (the “TDS Petitioners”). Specifically, Comcast Phone wants to clarify the record as to competition in voice service – or the absence of it – in these exchanges.
2. Comcast Phone is a Delaware limited liability company with a principal place of business in Philadelphia, Pennsylvania and a regional office at 676 Island Pond Road, Manchester, New Hampshire. Comcast Phone is a competitive local exchange carrier authorized to provide intrastate telecommunications services within certificated areas of the State of New Hampshire.
3. Comcast Phone provides telecommunications services in the areas of the state where it has been granted authority to do so by the Public Utilities Commission (“the Commission”) and has an interconnection agreement with Verizon.

4. Comcast Phone's cable affiliates provide cable television video service and high speed data service via cable modem throughout all areas of New Hampshire where is it franchised to do so. This includes areas formerly served by Adelphia Cable, where Comcast Phone acquired assets in July 2006. Within the exchanges served by TDS Telecom subsidiaries, Comcast Phone's cable affiliates hold cable television franchises in Andover, Antrim, Bennington, Boscawen, Chichester, Henniker, Hillsborough, Hopkinton, Loudon, New London, Salisbury, Sunapee (Georges Mills), Wilmot, and Wilton.
5. The TDS Petitioners point to the presence of cable television and broadband services as evidence that competitive wireline, wireless, or broadband service is available to a majority of retail customers in each of the exchanges they serve. The Direct Testimony of Michael C. Reed, Manager of State Government Affairs for TDS Telecom, states for each of the TDS Petitioners that "Adelphia and/or Comcast serve a significant portion of the [petitioner's] customers," and provides a confidential estimate of the percentage of customers served as well as the percentage who "have access to broadband service either using DSL or cable modems, making VOIP an option for them." *E.g.*, Direct Testimony of Michael C. Reed, Manager of State Government Affairs for TDS Telecom, on behalf of the TDS Petitioners at page 5, lines 6-9 (March 1, 2007) ("Reed Testimony").
6. In fact, Comcast Phone does not possess any certificate of authority in TDS Telecom territory. Additionally, as rural telephone companies, the TDS Petitioners are insulated by 47 U.S.C. § 251(f) from many of the interconnection obligations of incumbent local exchange carriers. Thus, although the Reed

Testimony states that “competitors such as Comcast offer unlimited calling plans along with their video products, ” Reed Testimony at page 4, lines 7-8, neither Comcast Phone nor any of its affiliates offers any voice services whatsoever in the exchanges served by the TDS Petitioners, let alone unlimited calling plans. As a result, even though Comcast Phone’s cable affiliates offer broadband service within these exchanges, Comcast Phone is unable to offer telecommunications services there.

7. Attachment E to the Reed Testimony lists communities in which Mr. Reed estimates the availability of competition in the exchange. This list indicates that cable television service is available to more than 50% of customers within the exchange in Bradford, Contocook, Meriden, and Sutton. Comcast Phone is informed and believes that the sole provider of video service in these exchanges is TDS Telecom, the affiliate of the TDS Petitioners, providing service in partnership with The Dish Network. Similar services may make up part of the greater than 50% of customers shown in other exchanges listed in the same Attachment E.
8. Comcast Phone takes no position on the TDS Petitioners’ petition for alternative regulation. It seeks to intervene to provide evidence in this proceeding to correct the suggestion that because Comcast Phone’s cable affiliates provide broadband video and data service in some of the exchanges served by the TDS Petitioners, customers in these exchanges have access to voice services from Comcast Phone. In addition, Comcast Phone may wish to brief the issues presented to the

Commission in briefs June 8, 2007 and June 20, 2007 in light of the full development of the facts and application of the law to those facts.

9. Comcast Phone recognizes that the time set for intervention in the Commission's May 1, 2007 Order of Notice has passed. The PUC nevertheless may allow intervention "at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings." RSA 541-A:32 II.
10. Grant of Comcast Phone's petition to intervene is in the interests of justice because the evidence that Comcast Phone seeks to introduce is highly relevant and material to this proceeding. Under RSA 374:3-b, III, the TDS Petitioners' petition depends on showing that "[c]ompetitive wireline, wireless, or broadband service is available to a majority of the retail customers in each of the exchanges served" by the TDS Petitioners. The evidence that Comcast Phone seeks to introduce goes directly to the findings the Commission must make with regard to this showing. Telephone customers within the TDS Petitioners' exchanges as well as current or potential competitors such as Comcast Phone could be adversely affected if a decision on the TDS Petitioners' Petition were made on an incomplete or inaccurate record. *See Order No. 23,664, Fryeburg Water Company Petition for Permanent Rates*, DW 00-238, Prehearing Conference Order at p. 9 (March 23, 2001) ("participation [of late intervenor] in this docket will be beneficial to the proceedings").
11. Furthermore, the record in this proceeding may have an impact on whether the TDS Petitioners are eligible for the rural carrier exemption under 47 U.S.C. § 251

(f), or for any suspension or modification of such exemption. In turn, the proceeding would affect Comcast Phone's interests in obtaining interconnection agreements with the TDS Petitioners to expand local exchange competition in New Hampshire.

12. Comcast Phone's intervention at this stage will not impair the orderly and prompt conduct of the proceedings. *See Order 24,651, Acquarion Water Company of New Hampshire, Petition for Approval of Corporate Acquisition, DW 06-094, Procedural Order at p. 4 (July 28, 2006) (granting late-filed petition to intervene where intervenor would "be subject to the procedural schedule already agreed to by the other parties in the proceeding"); Fryeburg Water, supra, at p.9.* Comcast Phone does not seek discovery; rather, it simply seeks to introduce testimony on the points presented in this petition to intervene. Under the Procedural Schedule issued July 20, 2007, such testimony is due October 12, 2007. Comcast Phone will be able to submit testimony by that date and to pick up with the ensuing dates on the schedule. Thus, Comcast Phone is prepared to take this proceeding as it finds it without causing any delay.
13. Because its intervention will provide material evidence on a central issue before the Commission and will not delay the proceeding, Comcast Phone should be permitted to intervene.

Respectfully submitted,

COMCAST PHONE OF
NEW HAMPSHIRE, LLC

By its Attorneys,

A handwritten signature in black ink, appearing to read "Cameron F. Kerry", with a horizontal line underneath.

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