

STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

DT 07-027

KEARSARGE TELEPHONE COMPANY, WILTON TELEPHONE COMPANY,  
INC., HOLLIS TELEPHONE COMPANY, INC.  
AND MERRIMACK COUNTY TELEPHONE COMPANY

PETITION FOR ALTERNATIVE FORM OF REGULATION

Rebuttal Testimony of  
Michael C. Reed  
on Behalf of Merrimack County Telephone Company,  
Kearsarge Telephone Company, Wilton Telephone Company, Inc.  
and Hollis Telephone Company, Inc.

November 15, 2007

## TABLE OF CONTENTS

INTRODUCTION .....	1
COMPETITIVE ALTERNATIVES.....	1
EVIDENCE SUBMITTED BY PETITIONERS REGARDING ALTERNATIVES .....	7
FEATURES OF THE PLAN .....	24
CONCLUSION.....	29

1 **INTRODUCTION**

2 **Q. Please state your name and occupation.**

3 A. My name is Michael C. Reed. I am employed by TDS Telecom Service Corporation  
4 (TDS Telecom) as Manager, State Government Affairs in TDS Telecom’s Government  
5 and Regulatory Affairs department.  
6

7 **Q. Have you testified previously in this Docket?**

8 A. Yes, I have. I submitted Direct Testimony in this Docket on March 1, 2007.  
9

10 **Q. What is the purpose of your rebuttal testimony?**

11 A. I am providing testimony in response to the testimony submitted on behalf of the  
12 Commission Staff (Dr. Chattopadhyay and Ms. Gage), the Office of Consumer Advocate  
13 (Dr. Loube) and New Hampshire Legal Assistance representing Daniel Bailey (Dr.  
14 Johnson). I refer to them collectively as the “opposing witnesses”. I will respond  
15 regarding the discussion of competitive alternatives, the evidence presented by the  
16 Petitioners regarding competitive alternatives and regulation and rates under the filed  
17 alternative regulation plan.

18 **COMPETITIVE ALTERNATIVES**

19 **Q. Turning first to the prefiled testimony of Dr. Loube, he states [Loube Direct at p. 2]  
20 that your prefiled testimony asserts that competitive cable, wireless and broadband  
21 service is available to a majority of TDS retail customers. He then says that this  
22 assertion is false. Would you comment on this statement please?**

1 A. Dr. Loube misquotes my testimony and the applicable statutory standard and is incorrect  
2 in his statement that my prefiled testimony is false. The applicable criterion in RSA  
3 374:3-b, III(a), which my testimony addresses, is that competitive wireline, wireless or  
4 broadband service must be available to the majority of the retail customers in each of the  
5 exchanges served. Under the statute, the presence of one additional provider offering  
6 service over one of those modalities is required. My testimony addresses this statutory  
7 requirement [Reed Direct at p. 3].

8  
9 **Q. Dr. Loube also states [Loube Direct at p. 2] that for approximately 70 percent of**  
10 **customers who subscribe to wireless service, such service does not compete (i.e., is**  
11 **not a substitute) with wireline service. Instead wireless service complements**  
12 **wireline service. Would you comment on this statement please?**

13 A. Dr. Loube makes an excellent point that is pointed out in my prefiled testimony [Reed  
14 Direct at p. 4]. Many wireless customers are using wireless as a complement to their  
15 wireline service, which may not result in the loss of an access line, but certainly results in  
16 the loss of access minutes of use, loss of features, and ultimately loss in overall revenue.  
17 I believe Mr. Loube’s quote from the FCC report “Telephone Subscribership in the  
18 United States” is a good representation of the wireless market in New Hampshire  
19 (response to data requests TDS-OCA 1-13 and TDS-OCA 1-30). Again I reiterate that the  
20 test under RSA 374:3-b is whether wireless service is available, not whether wireless has  
21 replaced an existing wireline service.

22

1 **Q. Dr. Loube describes [Loube Direct at pp. 7-12] the standing of some VoIP**  
2 **companies such as Vonage and SunRocket, and the pricing strategies of the major**  
3 **ILECs and Comcast. Would you care to comment?**

4 A. VoIP certainly is not dead. Conversely, it is alive and well. Our petitions and testimony  
5 make it clear that we meet the statutory requirements of availability of the services  
6 mentioned. The availability of broadband makes VoIP available as well. I have not  
7 viewed the status for VoIP companies other than to observe their advertising and the  
8 migration into the telecommunications business. I do know that there are pending actions  
9 at the FCC regarding VoIP, there have been actions related to VoIP and emergency  
10 services. Moreover, I understand that Vonage has in fact settled some of its patent  
11 infringement lawsuits. They are still in business with approximately 2.5 million  
12 subscribers. The FCC has recently issued an Order regarding the Porting of VoIP  
13 telephone numbers. Clearly VoIP providers are here to stay and are a major factor in our  
14 competition. In our own company, all or the majority of the commercial business  
15 systems we offer are IP capable. That would include PBX, now called IPPBX and key  
16 systems now referred to as Converged or IP capable. That's what customers demand and  
17 that is what the manufacturers are making.

18  
19 **Q. Dr. Johnson states in his testimony [Johnson Direct at pp. 101-102] that some**  
20 **customers are now placing long distance calls over a wireless phone that otherwise**  
21 **might have been placed over their wireline phone. He goes on to say that some**  
22 **portion of the reduction in access minutes and access revenues might be attributed**  
23 **to customers using wireless phones and email. He concludes that in an**

1 **appropriately structured alternative regulatory plan, basic services would be placed**  
2 **in a separate basket from long distance toll and enhanced services with greater**  
3 **pricing freedom provided to the latter category. Do you agree?**

4 A. I absolutely agree and I believe his analysis describes one goal of 374:3-b and describes  
5 our Plan as filed.

6  
7 **Q. Dr. Johnson describes his opinion of what the Legislature was thinking or meaning**  
8 **with the language of RSA 374:3-b, including his statement of why competitive was**  
9 **included [Johnson Direct at pp. 28-30]. As part of the process of providing**  
10 **information to the legislative committees, do you have an opinion as to what they**  
11 **might have been “thinking”?**

12 A. I know that the committee sessions I attended and testified at, and in discussions with  
13 many individual legislators, our group provided the exact type of data included in the  
14 Petition. Availability of alternatives was very important, as were the impacts of  
15 competition on our companies. The legislation was based on exactly the same  
16 competition and competitors included in our Petition--wireless, cable, and VoIP. The  
17 same issues were addressed: losses in access lines, minutes of use and revenue. The  
18 difference is that since the enactment of the law in mid-2006, competition from those  
19 sources has increased and the losses we are experiencing have increased, even while  
20 population is increasing according to Population Estimates provided by the New  
21 Hampshire Office of Energy and Planning reports provided in Staff 1-17.

22

1 **Q. The statute clearly singles out basic local service rates in the rate limitation section**  
2 **of the statute (RSA 374:3-b, III, (b)) from all other telecommunications products**  
3 **and services. Why then do you say that Staff is incorrect in using basic local service**  
4 **in their model?**

5 A. The Legislature recognized that all or nearly all of the products offered by a small  
6 telephone company are offered by competitors including, for example, local, long  
7 distance, broadband and calling features. They also understood that competition is not  
8 completely built out to every customer in every location at this time and that most other  
9 providers do not break out a fixed local service offering as a part of their service. In  
10 order to reach a balance between protecting customers and reducing, but still maintaining  
11 some regulation of small companies to meet the growing competition, they included  
12 protections for basic local service rates during the period of continuing growing  
13 competition as well as a rate cap to ensure the ongoing goal of universally available  
14 service at affordable rates.

15  
16 **Q. Did your company prepare a price elasticity model? If not, why not?**

17 A. Price elasticity models or theoretical pricing studies were never contemplated as part of  
18 RSA 374:3-b and they certainly are not a requirement for approval of an alternative  
19 regulation plan by the Commission. We did not prepare price elasticity models as a part  
20 of this case. What I do know, however, is that we have customers with choices of  
21 services provided by inter-modal competitors, and our customers are using them. I think  
22 it is only fair to assume customers are making the correct economic choices for  
23 themselves. Whether they like the flexibility of wireless, the benefits of unlimited long

1 distance calling, or all the features included in their wireless package or VoIP package,  
2 they are making the choice to use those services today, resulting in the access line, access  
3 minute and revenue losses demonstrated in our filing. As Dr. Loube aptly pointed out in  
4 his testimony, many customers are using wireless as a complementary service and have  
5 not yet disconnected their landline [Loube Direct at pp. 2, 13-14]. It is not the purpose of  
6 RSA 374:3-b to analyze why customers make certain choices, or why they might retain a  
7 landline and a wireless phone. Rather, the purpose of RSA 374:3-b, among other things,  
8 is to gauge the availability of alternative wireline, wireless or broadband service.

9 **EVIDENCE SUBMITTED BY PETITIONERS REGARDING ALTERNATIVES**

10 **Q. Dr. Loube stated in his testimony that according to your Attachment E to your**  
11 **prefiled direct testimony there is no cable service in Andover and Salisbury;**  
12 **therefore, KTC does not meet the first criterion that each exchange must have an**  
13 **alternative available in order for the alternative regulation plan to be approved**  
14 **[Loube Direct at p. 5]. Do you agree?**

15 **A.** No. Unfortunately, Dr. Loube again has misinterpreted RSA 374:3-b which states  
16 competitive wireline, wireless or broadband service must be available to a majority of the  
17 retail customers in each of the exchanges served. He is correct in that Confidential  
18 Attachment E states there is no cable service in Andover. However, we note there is an  
19 error in Attachment E. Andover, in fact, has [**BEGIN CONFIDENTIAL** **END**  
20 **CONFIDENTIAL**] cable coverage as well as [**BEGIN CONFIDENTIAL** **END**  
21 **CONFIDENTIAL**] cable broadband coverage. A corrected version of Confidential  
22 Attachment E is attached to this rebuttal testimony.



1 **Q. Dr. Loube states that in Attachment E you show that customers have either the**  
2 **ability to use DSL or a cable modem in every New Hampshire TDS exchange to**  
3 **have access to a VoIP provider, but that you did not provide information that shows**  
4 **that 50 percent or more of the customers in each exchange have access to a**  
5 **broadband provider [Loube Direct at pp. 6-7]. Instead you provided the average**  
6 **across the exchanges in each service territory. Please explain.**

7 A. DSL and Cable modem services are considered broadband service and customers who  
8 have broadband can utilize VoIP providers. Dr. Loube later agrees in a discovery  
9 response that Attachment E does provide information by exchange for each company.

10

11 **Q. Dr. Loube states that broadband is not available to a majority of the retail**  
12 **customers in each exchange and every TDS exchange. He goes on to state that**  
13 **“VoIP telephone service” is available only if the customer has already purchased the**  
14 **underlying required broadband connection. He cites the percentage of TDS**  
15 **customers who subscribe to DSL and states that he is unsure of the penetration rate**  
16 **of cable modem subscribers [Loube Direct at p. 11]. Do you agree with his assertion**  
17 **that broadband service is not available to a majority of the retail customers in each**  
18 **New Hampshire exchange served by TDS Telecom?**

19 A. No. Dr. Loube seems to be saying that broadband service is not available, either cable or  
20 DSL, if the customer does not purchase the broadband service. This is incorrect. The  
21 language in RSA 374:3-b, II(a) states the service needs to be “available”, not purchased.

22

1 **Q. Dr. Loube discusses wireless and wireline as substitutes or complements. He states**  
2 **that the overwhelming majority of customers use wireless as complements. He**  
3 **states that 12.8 % of households have cut the cord, and 86.2% have wireless service.**  
4 **[Loube Direct at pp. 13-14]. Do you agree with this statement?**

5 A. I did not verify any of the sources, but I do agree that most existing customers use  
6 wireless as a complementary service. As I have stated in my testimony, this  
7 complementary service is competition to our companies in the form of lost minutes of  
8 use, loss of features such as voice mail, etc. [Reed Direct at pp. 4-5]. Because customers  
9 have the complementary service and are already using it as a substitute for some of their  
10 wireline services, the risk of wireless becoming a complete substitute is high. I must also  
11 point out that many potential “new” customers, such as some of today’s college students,  
12 will never be customers and will utilize only wireless and possibly a broadband  
13 connection. Because of this, the statute references availability of the wireless service, not  
14 how customers choose to use it and where they may try to use it.

15  
16 **Q. Dr. Loube points out in his testimony that for Merrimack County Telephone**  
17 **Company, you did not provide data regarding the percentage of customers that are**  
18 **served by each cable provider [Loube Direct at p. 7]. Could you please explain?**

19 A. Yes. Attachment A as well as my prefiled testimony quotes the estimated cable coverage  
20 for Comcast. I did not include the cable television coverage provided by MCT  
21 Communications, Inc., not for the reason described by Dr. Loube (that it is a TDS  
22 affiliate), but rather for the reason that it does not offer cable modem/broadband service.  
23 If MCT Communications, Inc. did offer a broadband service option to customers, those

1 customers could easily purchase VoIP services from companies with no affiliation with  
2 the Companies.

3  
4 **Q. Dr. Loubé states that although TDS asserts lost customers to VoIP, you present no  
5 evidence of migration to VoIP providers [Loubé Direct at p. 7]. Could you explain?**

6 A. The statute clearly focuses on the availability of alternatives, not the actual take rate. I  
7 included in my testimony additional information regarding the sharp decline in minutes  
8 of use, access lines and revenues to provide the Commission with proof that not only are  
9 competitive alternatives available, customers are using those alternatives. One additional  
10 bit of information I provided was data relating to customer exit interviews as to reasons  
11 why they left the Companies. We do not have a category for “Left to go to VoIP”. Had  
12 that data been available I certainly would have included it.

13  
14 **Q. Dr. Loubé draws conclusions regarding VoIP service based on the pricing of  
15 broadband services by large ILECs and Comcast [Loubé Direct at pp. 9-10]. Do  
16 you have any comments or thoughts on the subject?**

17 A. Again the New Hampshire statute clearly states that services need be available, not that  
18 certain pricing levels for those services must be met. Dr. Loubé does clearly state some  
19 important points that describe the marketplace today. Pricing, not regulation, is what’s  
20 going on in the marketplace. I agree that not every customer we have today is a potential  
21 \$24.95 Vonage customer. Customers opting for a Vonage-like service at \$24.95/month  
22 for unlimited calling are likely to be the customers who use our network today (and  
23 generate access revenues) to make long distance calls beyond \$24.95. Another

1 important point Dr. Loube made is that Comcast is not regulated and thus free to change  
2 its prices [Loube Direct at p. 10].

3  
4 **Q. Could you please clarify the competitive position of Comcast as it relates to your  
5 companies?**

6 A. Comcast clarified in their late intervention in this case what we described in data  
7 responses, i.e., that they do not currently offer their “Digital Voice” service in our serving  
8 territories. TDS has been in discussions with Comcast regarding interconnection  
9 arrangements regarding both Vermont and New Hampshire. During our last discussions,  
10 while only verbal planning discussions, Comcast stated that they planned to file a bona  
11 fide request for interconnection with TDS in Vermont first, then following completion of  
12 that process file a similar request for the TDS territories in New Hampshire. The bona  
13 fide request has been received in Vermont and discussions are in progress.

14  
15 **Q. Why is this important to mention Comcast’s position in this case?**

16 A. I mention this for two reasons. First, there was some confusion during discovery  
17 regarding the availability of Comcast telephone service in our territory, and I wanted to  
18 clarify the situation. I also believe that Comcast’s plans emphasize the point that  
19 competition is escalating for our companies every day, and we must change the  
20 regulatory environment to match those changes as quickly as possible. The above  
21 mentioned discussions with Comcast have all taken place after we filed this case in  
22 March. The timing of the bona fide request in New Hampshire is based on a Comcast  
23 timetable or market strategy. Waiting for even more competition from Comcast before

1 approving the Companies' alternative regulation plans would provide an unfair advantage  
2 to Comcast since based on this current proceeding, the alternative regulation approval  
3 process can take a year or more before any relief may be granted.  
4

5 **Q. Dr. Loubé states that he suspects that many if not all customers who stated they**  
6 **dropped TDS for a Cable Modem service were dropping a second line used for dial**  
7 **up service [Loubé Direct at pp. 6-7]. Do you agree?**

8 A. I am not aware of the data used by Dr. Loubé to reach that conclusion on our behalf, but I  
9 do know that [BEGIN CONFIDENTIAL END CONFIDENTIAL] of the [BEGIN  
10 CONFIDENTIAL END CONFIDENTIAL] lost residential access lines, from  
11 December 2004 through August 2007, are a result of disconnecting a second residential  
12 line. Therefore I can agree that certainly some customers might be dropping a second  
13 line to go to a cable modem for service, thereby clearly indicating consumer choice as  
14 defined by the statute. In this example the customer has a choice to go to an alternate  
15 provider for broadband service, which means TDS lost an access line at a minimum and  
16 an access line, features, and access charges as a maximum. Furthermore, Dr. Loubé  
17 concluded in TDS-OCA 1-48 "there is no difference in functionality between the two  
18 types of lines, but customers may use them for different purposes."  
19

20 **Q. Do you agree with Dr. Loubé's assertion in his testimony that "the decrease in**  
21 **access lines...could have been directly related to the increase in DSL sales" because**  
22 **"(c)ustomers with multiple lines could have been reducing lines dedicated to**  
23 **Internet dial-up service and replacing them with TDS DSL service"?**

1 A. No. Let me again reiterate that my inclusion of the impacts of competition, such as the  
2 decrease in access lines our New Hampshire companies have experienced since the end  
3 of 2004, is only meant to provide additional detail to the Commission regarding the true  
4 picture of competition, competitive choices, and trends in customer usage in New  
5 Hampshire. Regardless, Mr. Loubé's assertion is incorrect. Our New Hampshire  
6 companies have lost [BEGIN CONFIDENTIAL END CONFIDENTIAL  
7 residential access lines since the end of 2004 (see response to data request Staff 2-3).  
8 Second residential lines had a net decrease of [BEGIN CONFIDENTIAL END  
9 CONFIDENTIAL] access lines over that same time period, representing only [BEGIN  
10 CONFIDENTIAL END CONFIDENTIAL] of the total residential access lines  
11 lost. Moreover, as stated in my direct testimony, for each customer that disconnects an  
12 access line, the Company attempts to find out the reason for doing so. Our analysis of  
13 this customer provided information from January 2005 through August 2007 shows that  
14 only [BEGIN CONFIDENTIAL END CONFIDENTIAL] of the customers that  
15 disconnected their second residential line indicated that they did so specifically to initiate  
16 a DSL connection. Another [BEGIN CONFIDENTIAL END CONFIDENTIAL]  
17 of the customers that disconnected their second residential line indicated that they did so  
18 due to a change in their needs. This more general change in needs category could include  
19 some customers that disconnected their second residential line for DSL service or for a  
20 competitive service such as wireless or cable modem. Therefore, we estimate that only  
21 [BEGIN CONFIDENTIAL END CONFIDENTIAL] of our lost residential  
22 access lines were lost due to customers replacing their residential service with DSL  
23 service.

1 During the same period from January 2005 to August 2007, total access line declines by  
2 company ranged from [BEGIN CONFIDENTIAL END  
3 CONFIDENTIAL] (see response to data request Staff 2-2), while business access line  
4 declines ranged from [BEGIN CONFIDENTIAL END CONFIDENTIAL]  
5 (see response to data request Staff 2-4).

6  
7 **Q. Dr. Johnson asserted that, since TDS had not received any requests for numbers to**  
8 **be ported to a VoIP provider, quite likely customers were simply disconnecting their**  
9 **second lines for Internet use rather than completely eliminating their use of TDS**  
10 **voice telephone service [Johnson Direct at p. 84]. Do you agree?**

11 A. No, certainly not entirely. Dr. Johnson fails to state that any broadband connection  
12 makes it possible to access a VoIP provider and thereby have access to additional  
13 methods of local and long distance calling even if the customer did not choose to port the  
14 local number. I do agree a customer in this example could choose not to eliminate his or  
15 her TDS voice telephone service. What Dr. Johnson does not point out, however, is that  
16 the ability of a customer to make this choice clearly shows the availability of an  
17 alternative falling within the meaning of RSA 374:3-b. It should be noted as well that  
18 number portability is available in each exchange in each company.

19  
20 **Q. In the data you provided you included maps of each exchange with DSL coverage**  
21 **included with your estimates of cable and cable modem availability. Why did you**  
22 **use this technique? Did you consider alternative techniques?**

23 A. The maps were used in my analysis and included in the Petition for two reasons. First, I  
24 had to understand and see for myself our best estimates of where the cable television and

1 cable modem service was in each exchange before preparing a petition. Second, I  
2 thought it would be a helpful visual depiction for the Staff and OCA to see where the  
3 service was located, compared to just reporting numbers or percentages. For my own  
4 analysis, I enlisted the aid of the local technicians and supervisors to provide their  
5 knowledge of the area and the locations served by cable. These employees work and  
6 many live in the exchanges, and other than having copies of the facilities maps of the  
7 competitors, this is the most accurate method I could find to ensure good data. At times  
8 during the process, the supervisors reviewing the data with us would call their technicians  
9 in the field to either verify a particular location or have the technician verify the  
10 locations. Some of these technical folks have worked and lived in these towns for twenty  
11 years or more, know the area, have set the poles and run the cable and wires. Once I had  
12 the best estimate of the cable network, I utilized the locations where we provide DSL and  
13 overlaid that information on the same exchange maps. Knowing the percentage of DSL  
14 availability in an exchange or the area of an exchange I was visually able to make an  
15 estimate of the cable availability. For a simple example, if an exchange had 80% DSL  
16 availability and the estimated cable coverage was the same I concluded that there was  
17 80% cable availability. Of course, I utilized all the competitive data available from  
18 competitors' websites and advertising as well. This technique was the most accurate I  
19 could provide for both our internal analysis as to meeting RSA 374:3-b and to provide to  
20 the Commission. I did consider alternatives such as using only website data and zip code  
21 data, but in my opinion using the maps and drawings from actual field knowledge of each  
22 of our exchanges was the best data.

23



1 **Q. Have you utilized this technique in any other competitive analysis?**

2 A. I first used this technique to evaluate competition in one of the other states I work in,  
3 New York.

4  
5 **Q. What might you have used as an alternative technique?**

6 A. Alternatives might include the use of only publicly available data from web sites. An  
7 additional alternative might have been to rely only on maps with our estimated cable  
8 coverage only, to minimize confusion on the part of people outside of our company. I  
9 believe the method we chose provided the most accuracy. I should clarify the term  
10 accuracy. The technique used is the most accurate I could think of which still provides  
11 the best estimates, not an actual house to house count. It is difficult to say that a number  
12 should be 73% rather than 77%, but it certainly provides ample proof that the majority,  
13 over 50%, have availability to a particular type provider and service.

14

15 **Q. Are there any New Hampshire competitive studies on which you could have relied in**  
16 **your filing?**

17 A. I am not aware of any competitive studies that are available and certainly none available  
18 to the level of detail we provided.

19

20 **Q. RSA 374:3-b does not have any requirement to provide or prove the effects of**  
21 **competition on a company yet you included that data in the Petition. Why?**

22 A. I included that data with the Petition as clear evidence to the Commission that customers  
23 not only have alternatives, but are choosing to use those alternatives. It is exactly the

1 same type of data that legislators relied on when they passed RSA 374:3-b, and I felt the  
2 Commission would want to be able to assess the impacts on the Companies.

3  
4 **Q. Dr. Chattopadhyay states in his summary that TDS did not provide specific**  
5 **evidence that competitive wireline, wireless or broadband service is available to the**  
6 **majority of customers in each exchange. Instead, he says that the Company**  
7 **provided a conglomeration of general information [Chattopadhyay Direct at p. 18].**  
8 **Do you agree with this assessment?**

9 A. No. The analysis provided by the Staff continues to ignore the intent of the Legislature  
10 as expressed in the text of the statute, in the legislative findings, and the Study  
11 Committee Report referenced in Mr. Ulrich's testimony. The Petition, the associated  
12 testimony and exhibits provided ample detailed data for each exchange for the Staff to  
13 perform their analysis. The Staff has set a standard that does not conform to the statute  
14 and is impossible for any small ILEC to meet. Dr. Chattopadhyay's testimony is an  
15 economic exercise that has no relevance to the statutory test for approval. It should be  
16 disregarded.

17  
18 **Q. Ms. Gage provided testimony stating that wireless availability does not meet the**  
19 **criteria of the statute [Gage Direct at p. 3]. Do you agree?**

20 A. Ms. Gage points out very well the differences and some of the difficulties with the  
21 measurement of assessing wireless coverage. I agree that there are clearly differences in  
22 the availability of wireless coverage in the exchanges. In fact, her testimony keys in on  
23 two exchanges that have some geographic challenges, i.e., mountains. However I

1 certainly do not agree that wireless availability does not meet the criteria of the statute  
2 (see response to data request Staff 2-37).

3  
4 **Q. Ms. Gage, in her testimony provided analysis of the four companies reaching some**  
5 **conclusions on the availability of broadband coverage for each. She determined**  
6 **that Hollis Telephone Company had cable modem and cable television coverage for**  
7 **the majority of the population [Gage Direct at p. 2]. Do you agree with that**  
8 **analysis?**

9 A. Yes, her analysis concurs with the information provided in the Petition.

10  
11 **Q. Ms. Gage concluded the same result for Wilton Telephone Company, that the**  
12 **majority of the population had cable modem and cable television coverage [Gage**  
13 **Direct at p. 2]. Do you agree?**

14 A. Yes, again her analysis concurs with the data provided in the Petition.

15  
16 **Q. Ms. Gage concluded in her testimony that the Merrimack County Telephone**  
17 **Company exchanges of Antrim, Bradford, Contoocook, Henniker, Hillsboro, Melvin**  
18 **Village, Sutton, and Warner have broadband or cable TV service available to the**  
19 **majority of the populations there [Gage Direct at p. 2]. Do you agree?**

20 A. Yes, her analysis concurs with the information filed in our Petitions.

21  
22 **Q. Ms. Gage concluded in her testimony that the Kearsarge Telephone Company**  
23 **exchanges of Andover, Boscawen, Chichester, Meriden and New London have**

1 **broadband or cable television service to the majority of the customers [Gage Direct**  
2 **at p. 2]. Do you agree?**

3 A. Yes, her analysis concurs with the information filed in our Petition.

4  
5 **Q. Ms. Gage concluded that the Kearsarge Telephone Company exchange of Salisbury**  
6 **does not have the availability of broadband or cable TV service for the majority of**  
7 **the customers [Gage Direct at p. 2]. Do you agree?**

8 A. No. I agree that her analysis of the cable television service availability is correct, and it  
9 matches our same conclusion. However, DSL service is available to an estimated  
10 **[BEGIN CONFIDENTIAL END CONFIDENTIAL]** of the customers in the  
11 Salisbury exchange.

12  
13 **Q. Ms. Gage states that DSL service from TDS at this time requires the inclusion of**  
14 **basic local service. Therefore, this broadband service does not compete with basic**  
15 **local service [Gage Direct at pp. 3-4]. Do you agree?**

16 A. I agree that basic local service is a component of our retail DSL product offering today,  
17 and therefore, it does not compete with basic local service. However, as the Legislature  
18 understood, access to broadband means access to alternatives to local service including  
19 features, long distance calling and local calling from VoIP providers, so it would not be  
20 correct to discount this as an available alternative to customers, even if they purchase the  
21 underlying broadband network connection from TDS.

1 **Q. Ms. Gage was quite critical of the data provided by TDS maps stating that there**  
2 **were incorrect keys/legends, some information was incorrect, she felt a call by the**  
3 **PUC counsel to a Salisbury selectman was more accurate, and Staff found it**  
4 **increasingly difficult to rely on the information provided by TDS on their exchange**  
5 **maps [Gage Direct at pp. 1-2]. Can you provide some information regarding the**  
6 **maps and the accuracy of the maps?**

7 A. I am disappointed that the Staff and Ms. Gage found the maps difficult to use. I pointed  
8 out in the Petition, in discovery, and in the technical session that the maps were an  
9 internal tool used by me to assess the competition and I hoped the commission would  
10 find the visual presentation helpful. I in no way indicated or would want to indicate that  
11 the maps were to be utilized as an exact measure of competition for every road, and every  
12 pole. I will admit to being remiss in not clarifying the keys/legends etc. used internally  
13 only, before sharing the maps with the parties. However, I must point out that TDS  
14 Telecom provided every detail requested by the Staff, to the extreme of, for one request,  
15 creating maps from over 500 individual company maps. I must also point out that in  
16 Confidential Supplemental Request Staff 2-36 there was a detailed explanation of every  
17 Staff concern with every map, the correction that was forthcoming on the maps, and most  
18 importantly that while the corrections were being made and the updated maps being  
19 provided in Second Supplemental Request Staff 2-36, there was no material difference in  
20 the percentage of availability of alternative services for purposes of the filings. For  
21 example in New London an error was made in the CATV estimates along the New  
22 London/Sutton Town line, which resulted in a change to the % CATV available from  
23 **[BEGIN CONFIDENTIAL** **END CONFIDENTIAL]** and changed the

1 cable modem availably from [BEGIN CONFIDENTIAL .END  
2 CONFIDENTIAL]

3  
4 **Q. Ms. Gage states that TDS did not provide any specific evidence as to the availability  
5 of wireless service by exchange [Gage Direct at p. 6]. Do you agree?**

6 A. No. Again I am disappointed in Ms. Gage's comment. There is no basis for this  
7 statement. We provided both maps and data with the Petition, as well as additional  
8 information via data responses to Staff and intervener data requests. For example as part  
9 of Staff 1-37 we provided a map depicting wireless coverage areas which was based on a  
10 product called the CoverageRight map, which was provided by an outside firm and  
11 tracked the availability of all wireless providers. This map is widely used in the industry.  
12 Our company utilizes the CoverageRight map to monitor wireless competition. In  
13 response to staff 2-37, additional detail was added at the request of Staff to define  
14 exchange boundaries on the maps.

15  
16 **Q. Why do you believe that both the Salisbury and Sutton exchanges meet the  
17 availability requirements of RSA 374:3-b?**

18 A. The data provided in the Petition indicates where wireless signals are provided based on  
19 information available from the wireless providers themselves. Of course, broadband is  
20 also available to a majority of the retail customers in both of these exchanges.

21  
22 **Q. Did you rely on any other data?**

1 A. Yes. I also relied on the extremely important fact that one wireless competitor has been  
2 granted Competitive Eligible Telecommunications Carrier (CETC) status by the FCC in  
3 all but one of the exchanges served by KTC in FCC Order DA 05-2673 adopted October  
4 7, 2005. In that Order, the FCC concluded that RCC has satisfied the statutory eligibility  
5 requirements of section 214(e)(1) to be designated as an ETC. The FCC further  
6 concluded that it is consistent with the public interest, convenience and necessity to  
7 designate RCC as an ETC. RCC satisfied the burden of proof in establishing that its  
8 universal service offering in New Hampshire will provide benefits to rural and non-rural  
9 consumers.

10  
11 In Section III B. 13. of the same Order, the FCC states that RCC has demonstrated  
12 through the required certifications and related filings that it now offers, or will offer upon  
13 designation as an ETC, the services supported by the federal universal service  
14 mechanism. RCC certifies that it now provides or will provide throughout its designated  
15 service area the services and functionalities enumerated in section 54.101(a) of the  
16 Commission's rules. RCC has also certified that in compliance with rule section 54.405  
17 it will make available and advertise Lifeline service to qualifying low-income consumers.  
18 Specifically, RCC will advertise the availability of Lifeline and Link-Up benefits  
19 throughout its service area by advertising and reaching out to community health, welfare,  
20 and employment offices to provide information to those people most likely to qualify for  
21 Lifeline and Link-Up benefits.

22  
23 **Q. Is there a CETC in any of the other exchanges included in the Petition?**

1 A. RCC has also been granted CETC status for the Hollis and Wilton exchanges, as well as  
2 all exchanges served by MCT.

3

4 **Q. Why is this important and why does this meet the requirement of availability in the**  
5 **Statute?**

6 A. Clearly the FCC decided that RCC met the requirement to receive high cost funding  
7 based on the availability of services or providing service based on a request from a  
8 customer. I believe the NH PUC must rely on the FCC in their ability to make this  
9 determination of availability to all but one exchange at KTC, Meriden.

10

11 **Q. Do you know how RCC would accommodate service to a customer should they be in**  
12 **a difficult service area?**

13 A. I again quote the FCC order section III B 16. RCC has demonstrated that it satisfies the  
14 requirements of section 214(e)(1)(A) that it offer the supported services using either its  
15 own facilities or a combination of its own facilities and resale of another carrier's  
16 services. RCC states that it will provide the supported services using its existing network  
17 infrastructure, which includes the same antenna, cell-site, tower, trunking, mobile  
18 switching, and interconnection facilities used to service its existing CMRS customers.

19

20 I note that in another jurisdiction where RCC was granted CETC status by the State  
21 Commission, RCC explained in some detail the use of cell extenders, repeaters,  
22 temporary antenna, external fixed house antenna, in-building antenna, Yagi antenna, etc.  
23 in its commitment to meet the requests of customers. So in my experience, state



1 commissions as well as the FCC have determined that RCC makes available or will make  
2 available the supported services upon approval of ETC status which in this case, has been  
3 granted.

4  
5 **Q. Do you believe that each of the Companies has met the competitive test outlined in**  
6 **RSA 374:3-b that the majority of the customers in each exchange must have access**  
7 **to competitive wireless, wireline for broadband?**

8 A. Yes, I certainly do. If I did not, the Companies would not have gone to the considerable  
9 efforts to prepare and present petitions and plans based on RSA 374:3-b.

10  
11 **Q. Please summarize your analysis of the competition from the petitions.**

12 A. My prefiled direct testimony and attachments A-E, along with maps provided in  
13 discovery (see data response to Staff 2-37 and Second Supplemental Request Staff 2-36),  
14 provide the summary of our best estimates of the availability of competitive alternatives.  
15 While there are differences in the level of available alternatives in the various exchanges,  
16 it is clear that at least one wireline, wireless or broadband alternative is available to a  
17 majority of customers in each exchange.

18 **FEATURES OF THE PLAN**

19 **Q. You participated in the legislative process that resulted in RSA 374:3-b. Does the**  
20 **Plan filed by the Company meet the expectations of that process from your point of**  
21 **view?**

22 A. Yes, it certainly does. The Legislature or committees within the Legislature heard  
23 testimony from many parties, including many parties involved in this case. In my

1 testimony on behalf of both the TDS Companies and the New Hampshire Telephone  
2 Association, I described the competition we were facing, the inter-modal nature of the  
3 competition and our losses as a result of the increased competition. The Legislature  
4 recognized the existing competition, our need to be able to compete and have less  
5 regulation while limiting the exposure to consumers through rate caps, and the overall  
6 ability of the PUC to monitor the Companies and take action if necessary.

7  
8 **Q. Would you describe the rate cap the Legislature felt was appropriate and the**  
9 **impacts this might mean for subscribers.**

10 A. The Legislature believed that the basic local service rate for the largest incumbent carrier  
11 in the state should be the protective cap for the consumers in the small companies. In the  
12 case of all the exchanges in the Companies it would fall in the Verizon tariffed and  
13 approved rates of either \$15.67 or \$14.39 depending upon the size of the calling area.  
14 For example, the customers in Hollis today pay \$14.59. The basic local service rates of  
15 Hollis customers could only increase by \$1.08 to \$15.67. On the other hand, customers  
16 in Wilton today pay just \$6.72, and their basic local service rate could increase over 5  
17 years by a total of \$7.67 to \$14.39. In the other 14 exchanges, the maximum possible  
18 increases range from \$3.19 to \$5.60. Annual increases during the first four years of the  
19 plan are limited to 10% of the basic service rate. (Therefore, for example, the maximum  
20 allowed increase for Wilton customers would be limited to just \$.67 during the first year.)

21

1 In the case of Hollis the current rates prevent even a 10% increase so the cap could be  
2 reached in one year; in other companies such as Wilton it would take at least 5 years to  
3 reach the cap.

4  
5 Although testimony from other parties in this case uses high percentage numbers when  
6 describing the potential rate increases, presumably for dramatic effect, they fail to point  
7 out the very small dollar amounts actually at stake and the reasonableness of the caps  
8 established by the Legislature (see response to data request OCA 2-11).

9  
10 **Q. Do you agree with the caps and the process the Legislature included in the statute?**  
11 **Do you believe they intended to authorize the potential for these increases?**

12 A. Yes. I agree that legislators were protecting affordable universal service by limiting basic  
13 service rate increases to rates with which they felt very comfortable. They capped basic  
14 service rates at the Verizon level with limitations on annual increases to avoid any claims  
15 of rate shock. I also agree with their analysis that competition is still growing.  
16 Legislators were very thorough in their research and very careful in the questions they  
17 asked during hearings.

18  
19 I admit I have some reservations with tying a rate cap for a small company to the rate of a  
20 larger provider, but it is certainly a reasonable and affordable cap for customers and  
21 provides assurance for the Commission that universal service will be protected.

1 **Q. Dr. Loube states that the companies could have proposed less than the 10%**  
2 **maximum basic rate increase limitations outlined in RSA 347:3-b and that by not**  
3 **doing so you are indicating that the Petitioners still have market power and are,**  
4 **therefore, ineligible for alternative regulation [Loube Direct at p. 14]. Could you**  
5 **explain why the language was submitted as it was?**

6 A. This question addresses a major fallacy in the arguments of the opposing witnesses.  
7 They suggest that alternative regulation under the statute is not available unless the  
8 applicant has no price increase potential over basic service due to competition. The  
9 Legislature understood the effects of competition on a small company and did not impose  
10 this requirement, but instead imposed a cap on basic rates. Under the theory advanced by  
11 the opposing witnesses, no cap would have been required. The Legislature acted not only  
12 to determine that a cap was required, but it also determined what that cap should be. The  
13 language in the Plan is a cap only. It is not an expression of any intention of the  
14 Companies to raise rates as quickly as possible to the maximum. The Companies simply  
15 have followed the intent of the legislature and the statute.

16  
17 **Q. Did you have plans to file for rate increases when you filed the Plan? Do you have**  
18 **any plans to file for rate increases once the Plan is approved?**

19 A. We have not proposed a rate increase. That is not the purpose of these filings. I would  
20 say that I had concerns with the earnings levels of at least one of the companies at the  
21 time we filed the plan, but we did not have an intention of increasing rates in that  
22 company at the time of filing. As of today, I also do not have any plans to immediately  
23 file for rate increases once the Plan is approved. The purpose of both the legislation and

1 filings is to give us flexibility to quickly raise and lower our rates as necessary to meet  
2 our competition; to bundle our various products and services; to assure adequate financial  
3 resources to maintain service quality and make necessary plant investment; and to meet  
4 universal service obligations. Should we find it necessary to raise rates because of the  
5 impacts of competition, the Legislature has built safeguards into the statute which are in  
6 our Plan.

7  
8 **Q. Dr. Johnson states that he does not believe the Plan preserves universal access to**  
9 **affordable basic telephone service [Johnson Direct at p. 103]. Do you agree?**

10 A. Absolutely not. Dr. Johnson obviously does not fully understand the statute and clear  
11 intent of the New Hampshire Legislature or how the proposed Plan complies with each  
12 section of RSA 374:3-b. It is incomprehensible to suggest that the Plan as filed based on  
13 RSA 374:3-b - with rates capped at levels enacted into law by the New Hampshire  
14 Legislature; a local rate cap approved by the NHPUC for the vast majority of New  
15 Hampshire's population; a Plan that clearly states that the Company's retail operations  
16 shall be regulated comparable to the regulation applied to a CLEC except for those rules  
17 that are necessary for the Company to continue its obligation as a carrier of last resort;  
18 the authority of the Commission to require modifications or require the return to rate of  
19 return regulation if the Plan fails - does not clearly preserve universal access to affordable  
20 basic telephone service as envisioned by the New Hampshire Legislature.

21  
22 **Q. Why is this important?**

1 A. The Plan ensures that all customers in the Companies serving territory will have the same  
2 access to service at rates protected by statute. Competitors on the other hand may or may  
3 not serve every customer in every exchange, so customers are protected. The Legislature  
4 understood that this type of protection was necessary as competition is not everywhere  
5 today, and it is quite likely that not every consumer in New Hampshire will have access  
6 to multiple providers for all areas of communications, broadband, and wireless with the  
7 technology available today.

8

9 **Q. Any other comments?**

10 A. Yes. Our Plan filed under RSA 374:3-b benefits the customers by allowing competitive  
11 pricing and bundling, ensures the Companies' commitment to offer innovative services  
12 and preserves access to affordable basic telephone service. At the same time, the Plan  
13 limits customer risk by limiting increases in basic rates in conjunction with the capping of  
14 basic local service rates at a rate already determined to be affordable by the Commission.  
15 I need to stress, as I did at the three public hearings, this is not a deregulation plan, but  
16 rather a plan that allows the Companies some flexibility to compete while maintaining  
17 universal service and still being monitored by the PUC.

18

19 **Q. Does the Plan include other protections that you wish to bring to the attention of the**  
20 **Commission?**

21 A. Yes. A key element in RSA 374:3-b is a failsafe feature for the customers, not mentioned  
22 by the opposing witnesses. RSA 374:3-b III(f) provides that for a plan to receive  
23 approval, the plan must provide that:

1 if the small incumbent local exchange carrier operating under the plan fails to  
2 meet any of the conditions set out in this section, the public utilities commission  
3 may require the small incumbent local exchange carrier to propose modifications  
4 to the alternative regulation plan or return to rate of return regulation.  
5

6 This feature makes it very clear that the Commission can approve this plan as filed,  
7 monitor the progress via a myriad of Commission Rules included in the Plan and, if there  
8 is a concern or problem, the Commission has full authority to act. And finally, the  
9 Commission can enable an alternative regulation plan to be implemented so both the  
10 Legislature and the Commission can evaluate actual experience of a small ILEC to see  
11 the benefits to New Hampshire customers and shortcomings, if any.  
12

13 **Q. Are you including any other materials with your testimony?**

14 A. Yes. I have provided the following TDS Data Responses as Exhibit MCR -1:

15 Staff 1-17  
16 Staff 1-37 (Confidential)  
17 OCA 1-13  
18 OCA 1-48  
19 OCA 2-11  
20 Staff 2-3  
21 Staff 2-36 (Confidential)  
22 First Supplement to Staff 2-36 (Confidential)  
23 Second Supplement to Staff 2-36 (Confidential)  
24 Staff 2-37  
25

26 Additionally, I have provided updated Exchange Maps as Exhibit MCR-2 (Confidential).

27 Please note that these Exchange Maps are a scaled-down version of the Exchange Maps  
28 previously provided as attachments to our second supplemental response to Staff Data  
29 Request 2-36 (TDS-CONF 0153-0168). Also included as Exhibit MCR-2 (Confidential)  
30 is a color copy of the cellular coverage density map previously provided as an attachment

1 to Staff 2-37 (TDS-CONF 0095). Therefore, these attachments have not been included  
2 within Exhibit MCR-1.

3 **CONCLUSION**

4 **Q. Please summarize your testimony.**

5 A. In summary, it is clear that we have fully demonstrated that competitive wireline,  
6 wireless, or broadband service is available to the majority of our customers in each of the  
7 exchanges in each of the four companies as defined in RSA 374:3-b. We have followed  
8 with great care both the text of the statute and the policy embodied in the legislative  
9 findings and the legislative Study Committee Report. The Plan should be approved as  
10 filed for each of the Companies.

11  
12 **Q. Does this conclude your rebuttal testimony?**

13 A. Yes, it does.