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
Timothy W. Ulrich
on Behalf of Merrimack County Telephone Company, Kearsarge Telephone Company, Wilton Telephone Company, Inc. and Hollis Telephone Company, Inc.

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INTRODUCTION

Q. Please state your name and occupation.

A. My name is Timothy W. Ulrich and I am employed by TDS Telecom, Inc. (TDS Telecom) as a Manager in TDS Telecom's Government and Regulatory Affairs department.

Q. Have you testified previously in this Docket?

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

GENERAL COMMENTS

Q. After reviewing the direct testimony of the New Hampshire Public Utilities Commission (Commission or NHPUC) staff and the witnesses for the New Hampshire Office of Consumer Advocate (OCA) and New Hampshire Legal Assistance (NHLA)[1], are there any general comments that you would like to make?

A. After reviewing the direct testimony of Dr.'s Chattopadhyay, Loube, and Johnson (collectively referred to as the "opposing witnesses"), it appears that their positions regarding the alternative regulation plans submitted by the Petitioners are based on their individual interpretations of the term "competitive" in the guiding statute. From these interpretations, they proceed to offer their academic viewpoints on why wireless, wireline and broadband services are not "competitive" with the Petitioner's basic local exchange service. Despite clear legislative findings that (i) consumers already have alternatives and (ii) the objectives of competition and universal service will best be served through the adoption of alternative regulation plans conforming to RSA 374:3-b, the opposing witnesses use the word "competitive" in RSA 374:3-b, III(a) to construe the statute in

[1] Within this rebuttal testimony, the term "interveners" refers collectively to the OCA and NHLA.

such a way that no small incumbent local exchange carrier (ILEC) could realistically expect to obtain approval of an alternative regulation plan.

As a result, the opposing witnesses' testimony unequivocally means that all small ILECs in New Hampshire will remain on rate of return regulation notwithstanding the express legislative finding that this result is not consistent with "the policy of this state … to promote competition and the offering of new and alternative telecommunications services while preserving universal access to affordable basic telephone service." [Laws 2005, 263:1]. Their testimony is nothing short of an express rejection of the legislative findings.

Q. What specific issues would you like to address after reviewing the opposing witnesses' direct testimony?

A. After reviewing the direct testimony of the opposing witnesses, there are several issues that I will address within this rebuttal testimony. Specifically, I will respond to the opposing witnesses' discussions regarding the interpretation of the statute, and the role of substitution and market analysis within this proceeding. I will address their comments regarding the Plan's pricing mechanism, and its goals to transition to competition, preserve universal service and offer innovative services.

INTERPRETATION OF RSA 374:3-b

Q. Do the Petitioners agree with Dr.'s Chattopadhyay [Chattopadhyay Direct at pp. 3-5] and Johnson [Johnson Direct at pp. 52-55] assertions that the General Court required the Commission to make a finding that wireline, broadband or wireless

services are "competitive" with a small ILEC's basic local service or determine the degree/extent of competition and substitutes within a small ILEC's exchange(s)?

A. No. Dr.'s Chattopadhyay and Johnson assume that the statutory phrase "[C]ompetitive wireline, wireless, or broadband service" requires the Commission to find the extent to which these services restrict the ability of a small ILEC to change the price of its basic local service component of telecommunications service. They then contend that the Commission must conduct an elaborate market analysis and price elasticity of demand study to make a finding that "competition" exists and services are "competitive." In my opinion, the statute's plain language refutes these viewpoints.

The Petitioners firmly rely on the legislative findings that formed the basis of RSA 374:3-b in Laws 2005, 263:1[2] and the subsequent legislative Study Committee Report[3]. As discussed below, a more reasonable interpretation of the statute is that the term "competitive" is used to modify the General Court's finding that wireless, broadband, and wireline are services that compete with traditional wireline services. Moreover, the statute does not just limit this finding to basic local exchange service. The General Court clearly knew when to use the term "basic service". It did so with regard to the rate

[2] 263:1 Purpose and Findings. The general court finds that the growth of unregulated wireless and broadband telecommunications services has provided consumers alternatives to traditional telephone utility services. The policy of this state is to promote competition and the offering of new and alternative telecommunications services while preserving universal access to affordable basic telephone services. The continuation of full utility regulation of small incumbent local exchange carrier telephone utilities is not consistent with these objectives. In light of the rapid changes in the telecommunications industry, these policy objectives will best be achieved by implementing alternative regulation plans for small incumbent local exchange carriers that encourage competition, preserve universal telephone service, and provide incentives for innovation, new technology and new services. With regard to large incumbent local exchange carriers, a study committee is hereby established to determine the appropriate form of regulation in this changing environment.

[3]Final Study Commission Report: Regulatory Practices Pertaining to the Telecommunications Industry, HB 194, Chapter 263:2, Laws of 2005) November 1, 2005 (the "Study Committee Report").

cap in RSA 374:3-b, III(b) but not with regard to the eligibility of a small ILEC under RSA 374:3-b, III(a) to receive approval of an alternative regulation plan.

Q. Please further explain your understanding of the meaning of the term "competitive" as used within the pertinent statute?

A. The plain language of the statute, including the statute's placement of the term "competitive" before identifying the specific services (wireline, wireless or broadband), together with the expressed legislative findings in Laws 2005, 263:1 and the Study Committee Report, cause me to conclude that the General Court has already determined that these services are competitive with the services of small ILECs.

Based upon this plain language, therefore, it appears that the General Court did not question whether these types of services compete with small ILECs as it so found in Laws 2005, 263:1. Specifically, the General Court found "that the growth of unregulated wireless and broadband telecommunications services has provided consumers alternatives to traditional telephone utility services." Given that it has already made this determination, the General Court only requires an applicant to show that one or more of these services is "available" to more than 50% of customers in each exchange of a small ILEC.

Contrary to the assertions of Dr. Chattopadhyay (Direct at pgs. 3-5], the legislative findings demonstrate that the General Court was fully aware that it was these specific

technologies and their offering of bundled services that compete with the small ILEC's wireline services, which is why they explicitly stated so within this statute.

Q. If the General Court did intend for the Commission to make such a finding as argued by the opposing witnesses, do you think it would have explicitly stated such intent within the statute?

A. Yes. As I have observed in my review of similar statutes in other states, the General Court (as does other legislatures) would have either provided the specific criterion for the responsible regulatory body to make such a determination or direct the responsible agency to promulgate rules to do so. As Dr. Johnson [Johnson Direct at p. 53] discussed regarding his experience with the use of the term "competitive" in the Virginia statute, a legislature would explicitly state how such a finding would be made if that was its intent[4].

Q. Did the General Court consider providing guidance on whether the Commission needed to determine if wireless, wireline or broadband services are "competitive"?

A. Yes. During the legislative process relating to the 2006 amendment to RSA 374:3-b, the NHPUC proposed in a letter dated February 8, 2006 to the House Science, Technology and Energy Committee an amendment to the statute that would have required small ILECs to demonstrate the availability of a substitute for basic local exchange service in order to depart from rate of return regulation. This proposed language was not adopted,

[4] Va. Code § 56-235.5(F) states "In determining whether competition effectively regulates the prices of services, the Commission shall consider: (i) the ease of entry, (ii) the presence of other providers reasonably meeting the needs of customers, and (iii) other factors the Commission considers relevant."

which is indicative of the General Court's desire that it is not necessary. To implicate otherwise, appears to be an attempt to re-write the legislation.

Q. What other guidance did the General Court provide when enacting this statute?

A. In reviewing the legislative history, the purposes of the statute are to: (1) provide small ILECs pricing flexibility and the opportunity to compete for customers who are interested in bundled services, such as wireless and broadband; and (2) protect customers of small ILECs who would otherwise be left behind in light of advancing technologies. Moreover, the General Court wanted a small ILEC to be regulated under an alternative form of regulation in order for the legislature to be able to gauge whether it was a better and more efficient means of regulating a small ILEC, i.e., "expose its benefits and shortcomings".[5]

Acting upon the General Court's stated policy and intent, the Petitioners filed an alternative regulation plan that follows the statute to the letter and to which the opposing witnesses fail to give any meaningful consideration. The opposing witnesses obviously prefer maintaining the status quo, given virtual certainty that no rural company will be able to meet the standards they advocate. In fact, according to Dr. Johnson [Johnson Direct at pp. 87-88, 94] only certain cable telephone services (with an unbundled local service component) would be considered "competitive" given his interpretation of RSA 374:3-b, which is clearly not the legislative intent.

[5] Within the Study Committee Report it stated "We strongly encourage small ILECs to proceed with alternative proposals defined in RSA 374:3-b already in effect. As a state, we cannot gauge the success of alternative regulation until someone tries it and exposes its benefits and/or shortcomings."

Q. Contrary to the claims of Dr.'s Chattopadhyay and Johnson, what is your recommendation as to the determination that the NHPUC needs to make regarding RSA 374:3-b, III (a)?

A. The cited criterion requires that either a competitive wireline, wireless or broadband service alternative is available in the small ILEC's exchanges. The only finding necessary by the NHPUC is to determine that the majority (greater than 50%) of retail (i.e., residential and business, not other carriers) customers have available to them a choice of a wireless, wireline or broadband service. Counter to the assertions by the opposing witnesses, there is no need for the Petitioners or the Commission to re-determine what the General Court has already found and conduct an economic exercise to explore the degree of substitution within the Petitioners' exchanges.

COMPETITIVE SERVICES

Q. If the Commission intends upon determining the "competitive" nature of wireline, wireless and broadband services, how should the Commission do so?

A. If the Commission unnecessarily chooses to make such a finding, the Petitioners contend that the Commission should consider whether wireline, wireless or broadband services that offer sufficiently comparable functionalities and economics to the consumer constitute reasonable alternatives to the telecommunications services offered by the Petitioners.

Within the Verizon alternative regulation stipulation submitted by Verizon and the NHPUC staff in Docket DT 06-072,[6] the NHPUC staff recognized the reality that intermodal competition is relevant when it listed that the "different modes providing local

[6] Stipulation, Verizon NH Alternative Regulation Plan, pgs. 1-2, signed May 5, 2006

telephone service" in competition with Verizon's local telephone service included the "modes of entry where competitors utilize UNEs, resale, full facility bypass competition, cable telephony, Internet telephony, wireless telephony." Apparently the NHPUC staff did not need to undertake a price elasticity of demand study to come to that conclusion, which it contends it must do so to arrive at the same conclusion within this proceeding. If such services compete with Verizon's services, it is intuitively obvious that they also compete with a small ILEC's basic local exchange service.

Q. How should the Commission determine there are reasonable alternatives available to customers to the services offered by the Petitioners?

A. A service that is a competitive alternative is one that customers perceive will provide them with similar functional capabilities as those services provided by the small ILEC, e.g., the customers find it to be a substitute for a small ILEC's service. A competitive wireless service would be one that performs the same generic function of providing local calling capability and access to long distance calling to the customer like an ILEC's traditional basic exchange service does. Wireless service offerings provide these functions and, therefore, customers do consider them as substitutes. Broadband telephone services make these same generic functions available through Voice over Internet Protocol ("VoIP") and therefore are substitutes as well – even where provided over the small ILEC's own DSL network. While many of the services provided by wireline, wireless, and broadband competitors may not be the exact equivalent of an ILEC's traditional wireline service, customers do find them to be substitutable services,

and are services which are increasingly attractive to customers at the prices at which they are offered.

Contrary to the claims of Dr. Chattopadhyay [Chattopadyhay Direct at p. 3], the analysis of a small ILEC's retail service must not simply be limited to basic local exchange service. The communications services offered by small ILECs include much more, such as access services enabling customers to reach long distance carriers, vertical features such as call waiting, call forwarding and three-way calling, Caller ID and DSL access. Any retail consumer with access to cellular service or a broadband connection can buy the wireless and broadband telecommunications packages. By using a wireless or broadband network (including ILEC DSL service), customers can now place and receive local and long distance calls without using the ILEC for access to the public switched telephone network. Competition and competitive services must be viewed more broadly if the intent of the statute is to have any effect.

Q. Is it relevant within this proceeding if a customer considers a service to be a complement or a substitute for the small ILEC's basic local exchange service?

A. No. If a customer uses a competitor for any or all of the services offered by the Petitioners, it is a "competitive choice". The reason a customer makes the change could be economic, convenience or some other reason, but it is not relevant to this proceeding. It is clear that customers have choices to the small ILEC's services.

As Dr. Loube [Loube Direct at pp. 12-14] and Dr. Johnson [Johnson Direct at pp. 60-63] state, customers are using these services as substitutes. Dr. Loube [Loube Direct at p. 13] also recognizes the fact that whether a customer uses a wireless service as a substitute for wireline service or as a complementary service to wireline service is dependent upon "how individuals use them." Given the General Court's direction, however, it is immaterial whether it is just one person or all customers within an exchange that consider it a substitute, and it is irrelevant whether they consider these technologies as complements rather than substitutes. The fact remains that they have a competitive choice that they can freely make. If it were material, the statute could have explicitly required a showing as to the number of customers who find these technologies to be a substitute rather than complementary or why they choose one service over another. Instead, they simply required a showing that these technologies are available to a majority of customers within an exchange.

Q. Are you aware of other independent research that considers wireless and broadband services to be substitutes for an ILEC's wireline telecommunications service?

A. Yes. The independent NARUC-funded National Regulatory Research Institute has also found that—

> "wireless and broadband services are increasingly substitutable for and competitive with wireline services in the markets for basic local telephone service . . . Failure to consider the competitive effect of wireless and broadband services in local telephone markets will bias competitive analyses towards concluding that incumbent wireline providers have more market power than they actually do and lead to more intervention than is necessary to achieve public interest outcomes."[7]

[7] See NRRI Assessing Wireless and Broadband Substitution in Local Telephone Markets; June 2007; Executive Summary.

Q. Dr. Chattopadhyay provides his analysis on the price elasticity of demand for the basic local exchange service of Wilton Telephone Company and Hollis Telephone Company to justify his assertion that there are no services that compete with their basic local exchange service. Do you have any comments on his analysis?

A. Dr. Chattopadhyay's price elasticity of demand study is interesting but not relevant to this proceeding. This analysis is not required by the statute and is not relevant to the question of whether the alternative regulation plan should be approved for these Petitioners. Even if Dr. Chattopadhyay's analysis were pertinent, it would not explain why there have been no rate increases in the Petitioners' rates since 2000, but the Petitioners are still seeing a loss in access lines and access minutes. In these days of steady and falling prices and huge overall increases in telecommunications usage, this loss in access lines and access minutes shows that the Petitioners are facing competition from competitors utilizing alternative technologies and bundles of products that, while not structured identically to traditional telephone service, provide competitive choices for the majority of the Petitioners' customers in each exchange.

Q. Do you have any other observations regarding Dr. Chattopadhyay's price elasticity of demand analysis?

A. Yes. The results of Dr. Chattopadhyay's price elasticity of demand study appear to suggest that a wireless service is neither a substitute nor a complement of wireline

service. This result would be inconsistent with both the testimony of other interveners and studies by NRRI.

Furthermore, a measurement of the price elasticity of demand is only one factor that needs to be considered when evaluating the competitiveness of a service or market. As Dr. Johnson [Johnson Direct at pp. 56-58] suggests, there are many other factors that need to be considered and measured in addition to the price elasticity of demand, and reliance solely on price elasticity of demand fails to take into account other facets of the behavioral workings of a competitive market. Specifically, it fails to take into account the behavior of the market such as the actions of the firms within and outside of the market; factors considered when a firm makes a pricing decision; freedom of entry and exit; customers' buying behavior; and relationships between prices and costs.

PRICING UNDER THE PLAN

Q. Are there other issues discussed within the direct testimony of the opposing witnesses that you would like to address?

A. Yes. While most of the testimony focused on whether or not the Petitioners met only one criterion of RSA 374:3-b, III, Dr.'s Loube and Johnson did address some of the other criteria and specific elements of the Petitioner's Plan. Specifically, I will address their comments regarding the Plan's pricing mechanism, and its goals to transition to competition, preserve universal service and offer innovative services.

Q. Why did each Petitioner's Plan include a pricing mechanism that allows it to raise basic local exchange rates up to 10% per year for four years?

A. Contrary to the claims of Dr.'s Loube [Loube Direct at pp. 14-15] and Johnson [Johnson Direct at p. 31] that the purpose for including such a pricing mechanism must be to extract monopoly rent, we perceived that it was the pricing mechanism that the General Court considered appropriate in order to protect against raising rates above affordable levels. This is a reasonable assumption given that the largest carrier in New Hampshire is still under rate of return regulation, and surely the Commission has carried out its mandate to ensure that their rates are just, reasonable, and affordable. It would be odd indeed if following the statute exactly would constitute the basis for rejecting the Plan.

Q. As stated above, Dr.'s Loube and Johnson criticize the Petitioners for suggesting a pricing mechanism that includes increases for basic local service. Do you share their concerns?

A. No, but it is a good scare tactic. Dr. Loube [Loube Direct at p. 14] claims that inclusion of such a cap shows "that the Petitioners are willing and able to exercise market power." However, with declining access lines and access minutes, competition already places pressure on the Petitioners' basic local exchange rates, and raising local rates would be one of its last options. Dr. Johnson [Johnson Direct at p. 31] is right when he says "[i]n competitive market firms typically increase their prices in response to cost increases, while they decrease rates in response to competitive pressures." As he indicates, the former is the reason a Petitioner would increase its rates while the latter may keep it from doing so. Failure to recognize this is short sighted from a business perspective.

As the numbers show, the Petitioners are currently experiencing, due to competition, a loss of total revenue while costs have stayed relatively the same, since the Petitioners need to maintain the existing plant to perform their duties as carriers of last resort. Under rate of return regulation, the Petitioners could file and recover their costs via the rate case process. Under the proposed alternative form of regulation, however, they will either need to cut costs or raise rates to remain profitable. The option of raising rates, however, is likely counterproductive (i.e., will likely incur greater losses to competitors). But, the ability to raise rates needs to be retained in the event that the only option is to discontinue offering service if they are unable to recover costs. Again, the cap is reasonable, and the claim that the Petitioners will raise the rates 40% in 4 years is completely without basis, given both the caps and the actions of TDS Telecom in other states.

Q. Under alternative forms of regulation in other states, has TDS Telecom raised basic local exchange rates to the extent authorized under an alternative regulation plan?

A. Of 112 companies, 72 of them are operating under an alternative form of regulation. In the last 5 years, the majority of these companies have not raised their rates for basic local exchange services even though they were allowed to do so. Also, the rates for non-basic services have been raised for several of these companies, but the generation of revenue from such increases has been minimal. As the General Court prefers to observe theories proved out in practice, TDS Telecom's pricing actions in other states speak louder than the baseless claims made by the interveners.

COMPETITION AND THE RURAL EXEMPTION

Q. How does the Plan achieve its stated goal to facilitate competition?

A. Each Petitioner's Plan specifically states that one of its goals is to facilitate the transition to a competitive telecommunications market in the Petitioners' territory, including satisfaction of the Petitioners' intercarrier service obligations. This goal is intended to comply with the intent of RSA 374:3-b, which is to set forth a regulatory framework based upon the existing market conditions for small ILECs. Given the extent of competition that the General Court recognized that a small ILEC already faces, the Plan's goal is to provide for a regulatory framework that will facilitate the transition towards market-based pricing while putting the small company on a more comparable regulatory footing with its competitors.

Q. Does the statute require a small ILEC to waive its rural exemption?

A. No. RSA 374:3-b is entirely silent with respect to a qualifying company's "rural exemption" under 47 USC § 251(f)(1). As required under the statute[8], the Study Committee addressed "[w]hether a small incumbent local exchange carrier should be required to agree to relinquish its rural exemption under the federal Telecommunications Act immediately upon approval of an alternative regulation plan." Within its report, the Study Committee did not adopt such a requirement but instead determined that it would "prefer to see the results of small ILEC alternative regulation plans under RSA 374:3-b, before adding additional requirements to current law".

The General Court plainly considered the question and indicated its preference to observe the effects of a small ILEC under an alternative form of regulation before making such a

[8] In Laws 2005, Chapter 263, of which the provisions that were codified as RSA 374:3-b are a part, the Legislature established a legislative committee to study practices relating to the telecommunications industry in New Hampshire.

mandate. As intended, therefore, the Petitioners did not include a waiver of the federal rural exemption, and adoption of the Dr. Loube's recommendations would deny the General Court the opportunity to see these results.

Q. Dr. Loube claims that the Plans do not achieve the goal to transition to competition since the Petitioners will still retain their rural exemption. Do you agree with him?

A. No. Dr. Loube [Loube Direct at p. 21] advocates for waiving the Petitioners' federal rural exemption to promote competition in the Petitioners' territory by allowing competitors to be able to interconnect with a Petitioners' network pursuant to the requirements and processes in 47 USC §§ 251 and 252. Moreover, Dr. Loube [Loube Direct at p. 22] incorrectly claims that the "TDS companies do not have the duty to provide UNEs for loops or collocation services to a requesting telecommunications carrier." What Dr. Loube does not state is that the rural exemption is a process that the ILEC must undertake to maintain its rural exemption, but it does not hinder a *bona fide* competitor from interconnecting with each Petitioner.

Q. Please elaborate on why the Petitioners did not waive their rural exemption?

A. 47 USC § 251(f)(1) allows a smaller ILEC a "rural telephone company exemption" from the interconnection obligations under 47 USC § 251(c), not from its interconnection obligations under 47 USC § 251 (a) and (b). This rural exemption from the obligations in 47 USC § 251(c) is subject to termination by the relevant state commission on a case-by-case basis,[9] not from a "global" waiver perspective.

[9] 47 CFR § 51.401 State authority: A state commission shall determine whether a telephone company is entitled, pursuant to section 251(f) of the Act, to exemption from, or suspension or modification of, the requirements of

In carrying out this federal mandate, a state commission must terminate the rural exemption if it finds that a specific *bona fide* request of the entity seeking interconnection is not technically infeasible, is not unduly economically burdensome, and is consistent with specified universal service provisions of the 1996 Act (i.e., consistent with 47 USC § 254). Upon termination, the state commission must establish an implementation schedule to comply with the request.

The federal rural exemption process, therefore, merely allows a state commission the opportunity to ensure that the public interest is served on a case-by-case basis. Only by undertaking this process on a case-by-case basis can a state commission ensure that the interconnection of unbundled network elements is in the interest of both consumers and the utility. If a state commission were to order a "global" waiver of an ILEC's rural exemption, it would be relinquishing its jurisdiction to ensure that the public interest is being served.

Q. What problems could occur if a small ILEC were even able to "globally" waive its rural exemption?

A. If a "global waiver" were mandated, for example, the state commission would not be able to ensure that a request for interconnection did not conflict with 47 USC § 254, which among other factors requires rates in rural areas to be "reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." Specifically, if an

section 251 of the Act. Such determinations shall be made on a case-by-case basis.

interconnection request, for example, was not "technically feasible" and required the rural company to incur expenses beyond that associated with efficient competitive entry, the rural ILEC would likely be required to raise its basic local rates to a level that might impact its ability to provide ubiquitous service.

Q. Dr. Loube [Loube Direct at p. 22] says "If TDS agreed to offer UNEs and adopt the current Verizon NH UNE rates that would fulfill the duty to provide UNEs to competitors." Do you agree with him?

A. No. Dr. Loube's suggestion to adopt another carrier's rate for unbundled network elements (UNEs) is puzzling and has no basis in applicable statutes, rules or within this proceeding. If the Petitioners received a *bona fide* request for interconnection of 47 USC §251(c) services and the rural exemption was terminated as to this request, the Petitioners would price their UNEs pursuant to their own total element long-run incremental cost (TELRIC) studies in accordance with the pricing standards in 47 USC §252 within the timeframes set forth in federal law.

Q. What has been TDS Telecom's experience with waiving the rural exemption in other states?

A. None of TDS Telecom's companies have been required to waive their rural exemption within their alternative regulation plans. However, one acquired company (Mid-Plains) did operate under similar commitments as proposed by the Petitioners plans, which had experiences that are illustrative. Specifically, under its 1996 alternative regulation plan, Mid-Plains waived its state franchise, but did not waive its federal rural exemption. Upon receipt of a *bona fide* request from two (2) competitive local exchange carriers

(CLECs), the Public Service Commission of Wisconsin undertook a rural exemption proceeding and terminated the rural exemption of Mid-Plains regarding these two (2) CLEC requests after determining it was in the interest of the consumers and the utility. Mid-Plains then negotiated interconnection agreements with these CLECs.

As this experience shows, competitors can still interconnect without waiving a rural exemption within a reasonable time frame (i.e., 120 days) while allowing the Commission to retain jurisdiction over this matter.

Q. What has been TDS Telecom's experience with negotiating interconnection with a cable company that was simultaneously seeking to purchase UNEs for it to provide basic local exchange service in a TDS Telecom rural exchange?

A. Over the last several years, cable providers have sent TDS Telecom interconnection requests seeking exchange of traffic agreements, unbundled network elements, and the termination of the federal rural exemption for several of its companies. Regarding one specific case, the negotiation and rural exemption proceedings began to run simultaneously but independent of each other, i.e., the rural exemption proceeding did not hinder the negotiating timelines.

After numerous negotiation sessions, the cable provider determined it actually did not need to purchase UNEs from the rural ILEC and thus the rural exemption proceeding was discontinued. The exchange of traffic agreements were timely completed and the cable provider is currently serving the pertinent TDS Telecom exchange. Again, this shows

that the rural exemption and the negotiation process can proceed harmoniously as intended by the federal law without delaying a competitor's entry into the market.

UNIVERSAL SERVICE

Q. Dr. Loube [Loube Direct at p. 21] and Dr. Johnson [Johnson Direct at p. 102] assert that given the Petitioners ability to raise basic rates up to 40% in four years, the Plan does not achieve the statutory goal of preserving universal service. Do you agree?

A. No. As stated earlier, the General Court put into place a protective cap on the small ILECs rates that it considered to be reasonable to preserve universal access to affordable basic telephone service. Under the Plan, the Petitioners will retain their carrier of last resort obligations that will ensure all customers have access to service, and the protective cap will ensure such services are just, reasonable and affordable.

Furthermore, the Petitioners will continue investing in their networks to meet customers' needs, while ensuring that customers receive essential services. At the same time, the Petitioners will adhere to the rate caps on basic service and will comply with all universal service rules.

INNOVATIVE SERVICES

Q. Why does the Plan not specifically state the innovative services it will deploy?

A. The innovative services TDS Telecom will be providing in the future are not available today as they will be services desired by customers and/or offered to combat the competitive market in New Hampshire. Many will involve advances in technology, which may not be available at this time. Examples of these services under consideration

or testing, some of which may or may not be offered in New Hampshire, include a video product and fixed wireless, as well as super high speed data. One product currently under consideration for New Hampshire is naked DSL. When TDS Telecom determines where to deploy a new service (e.g., DSL), however, it is more likely to deploy new service in the territory of its companies that are under an alternative form of regulation.

As discussed in the General Court's Study Committee Report, it believes that "in theory and in general, competition will keep prices affordable and result in more innovation." The General Court further stated that it would "prefer to see this theory proved out in practice by following the progress of small ILEC alternative regulation plans under RSA 374:3-b." TDS Telecom hopes the General Court will get such an opportunity.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.