DE 98-157
DE 98-158
DE 98-159

CHICHESTER TELEPHONE COMPANY, KEARSARGE TELEPHONE COMPANY, MERIDEN TELEPHONE COMPANY

OVEREARNINGS INVESTIGATIONS

Order Approving Stipulation and Comprehensive Settlement Agreement Regarding Permanent Rates, Rate Case Expenses and Other Matters

O R D E R N O. 23,358

December 6, 1999

APPEARANCES: Murray, Plumb & Murray by John C. Lightbody, Esq., for Chichester Telephone Company, Kearsarge Telephone Company, and Meriden Telephone Company; Office of the Consumer Advocate by Anne Ross, Esq. on behalf of Residential Utility Customers; and Larry S. Eckhaus, Esq., for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 18, 1998, following a review by the New Hampshire Public Utilities Commission Staff (Staff), the New Hampshire Public Utilities Commission (Commission) issued Orders of Notice pursuant to RSA 365:5 and 378:7 opening investigations into the level of earnings of Chichester Telephone Company (CTC), Kearsarge Telephone Company (KTC), and Meriden Telephone Company (MTC), Docket Nos. DE 98-157, DE 98-158, and DE 98-159, respectively (referred to collectively as TDS). Those Orders of Notice scheduled a prehearing conference in each docket for October 12, 1998, to address the issue of temporary rates during the pendency of the overearnings investigation, to consider motions to intervene, and to establish a procedural schedule.

By Order No. 23,092, dated December 21, 1998, the Commission established, by agreement of the Parties and Staff, temporary rates for each of the three companies. The rates were set at the then current rates pursuant to RSA 378:27, thereby protecting both ratepayers and the utilities.

Before opening these dockets the Commission had opened Docket No. DE 97-180, in which the TDS Companies were interveners, relating to 2-Way Home and Contiguous Extended Area Service (EAS) throughout the state of New Hampshire. The issues in docket 97-180 were relevant to the cases at hand. Docket DE 97-180 was opened to consider, among other issues, Bell Atlantic’s proposed consolidation of Rate Groups and expansion of EAS to the Home and Contiguous plan. On March 9, 1998, the Commission issued Order No. 22,861 in that docket directing that each of the independent telephone companies (ICO) (including the TDS companies), Staff and the OCA hold technical discussions regarding the appropriate rate changes necessary, if any, to implement 2-way Home and Contiguous EAS in the ICO territories and that an additional hearing(s) be held to review the rate impacts proposed to implement 2-Way Home and Contiguous EAS in the ICO territories. KTC, CTC, and MTC wanted to implement full 2-Way EAS to all Home and Contiguous exchanges but were concerned about the adverse impact such expanded service would have on their net revenues resulting from both an increase in expenses and a reduction in revenues.

In order to implement 2-Way Home and Contiguous EAS for each of their exchanges, on August 19, 1998, KTC, CTC, and MTC filed a Petition to consolidate into a single company, KTC, that would continue to provide local exchange telephone service in all of the six exchanges and territories previously served by the three separate companies. That Petition was docketed as DE 98-147. It sought all necessary approvals for the immediate provision of 2-Way Home and Contiguous EAS and for the consolidation of the three companies.

Also, prior to the commencement of these three dockets, in May, 1998, the Commission received a petition from subscribers of KTC for EAS service between KTC’s Boscawen exchange and Concord, New Hampshire. That Petition was docketed as DE 98-086. On August 20, 1998, the Commission held a public hearing where it received comments from the company and public witnesses. On October 7, 1998, the Commission issued Order No. 23,039 whereby it found that Concord was a community of interest for a sizeable group of residents of Boscawen and ordered the Staff and KTC to develop a cost proposal for the provision of such service so that information could be included in the ballot submitted to Boscawen subscribers. That Order determined that no balloting of the Concord subscribers was necessary because there would be no change in the Concord rate group and, therefore, no rate impact on the Concord subscribers. Again, KTC wanted to implement full Boscawen/Concord 2-Way EAS but was concerned about the adverse impact such expanded service would have on its net revenues, a result of both increased expenses and reduced revenues.

TDS, Staff, and the OCA held technical discussions as ordered in DR 97-180 on August 27 and November 6, 1998. Those discussions also considered the issues raised in DE 98-086, DE 98-147, DE 98-157, DE 98-158, and DE 98-159.

On January 14, 1999, the parties entered into a Stipulation and Agreement (1/14/99 Stipulation) designed to resolve all issues in the various dockets pertaining to consolidation of the three TDS companies, implementation and provision of 2-Way EAS to all home and contiguous exchanges, and, for KTC's Boscawen exchange, implementation of 2-Way EAS to Concord. The 1/14/99 Stipulation fully resolved DE 98-147 (consolidation), DE 98-086 (Boscawen-Concord EAS), and TDS's participation in DE 97-180 (2-Way Home and Contiguous EAS). The 1/14/99 Stipulation also impacted these three continuing dockets.

The 1/14/99 Stipulation (a) established a monthly cost to be used in balloting customers of the Boscawen exchange in accordance with the Commission's Order No. 23,039 dated October 7, 1998, in DE 98-086, (b) established new basic residential and business rates for each of the six exchanges involved that were, in each instance, below the Bell Atlantic rates for the equivalent rate group, and (c) modified the established temporary rates for each of the three companies to make those temporary rates equal to the new rates established by the 1/14/99 Stipulation. Notwithstanding the slight increase in basic monthly rates, the 1/14/99 Stipulation resulted in a net reduction in annual revenues of the three companies combined of $270,345.

The 1/14/99 Stipulation stated that these three earnings review dockets (DE 98-157, DE 98-158, and DE 98-159) would continue and that further proceedings in these three dockets would be governed by the 1/14/99 Stipulation. As a part of the 1/14/99 Stipulation, TDS agreed that, subject to certain conditions, it would not seek any increase in any customer rate for any of the six exchanges that would be effective prior to the second anniversary of the date of the 1/14/99 Stipulation, or until January 14, 2001.

A public hearing on the 1/14/99 Stipulation and on the consolidation, implementation of 2-way Home and Contiguous EAS, and implementation of Boscawen/Concord EAS was held on Tuesday, February 2, 1999. By Order Nisi No. 23,147 dated February 18, 1999, the Commission approved the 1/14/99 Stipulation, subject to a further public comment period through March 10, 1999. On March 17, 1999, the Commission's Order Nisi became effective by its own terms (i.e., because the Commission did not issue a supplemental order prior to that date).

In Spring and Summer, 1999, Staff conducted comprehensive audits of the TDS companies and engaged in discovery through Audit Data Requests. Staff’s final audit reports for the three companies were issued on April 22, 1999. Testimony, including rebuttal testimony, was also filed by both the Commission Staff and the TDS companies.

During the period of discovery and testimony the consolidation of the three companies previously approved by the Commission became effective. On September 1, 1999, CTC and MTC ceased to exist and service throughout the exchanges formerly served by those companies was taken over by KTC. In addition, all of the expanded EAS calling areas have now been fully implemented, including EAS in the territories formerly served by CTC and MTC.

Settlement conferences related to the overearning dockets were held between the parties on June 2, 1999, October 5, 1999, and October 12, 1999. On November 12, 1999, the parties and Staff entered into a Stipulation and Comprehensive Settlement Agreement (Agreement)and on November 18, 1999, a hearing was held at which time the Agreement was presented to the Commission for its consideration.

II. POSITIONS OF THE PARTIES

A. TDS

1. Revenue Requirements - The Companies initially presented testimony of Bryan Woltman, Manager - Revenue and Earnings, and Messrs. Jeffrey Makholm and Charles Zarkadas, outside econometric consultants retained by TDS, who concluded that the three Companies were underearning by a combined total of $300,530 (CTC $111,876; KTC $90,138; and MTC $98,516). The major reasons for the conclusion were the inclusion of the impact of the Companies' recent expansion of EAS, use of a higher return on equity (13.07%), various adjustments, and the inclusion of rate case expenses.

After further discussions, the Companies reduced the amount of the alleged overearnings to a combined $245,530. The reduction was due to the exclusion of rate case expenses from the original figure.

2. Rate Design - During the course of this proceeding, the Companies proposed two revenue neutral rate design changes:

a. Because these three Companies were consolidated into a single company effective September 1, 1999, the Companies proposed blending the depreciation rates for each account on a weighted average basis to produce a single depreciation rate for KTC post consolidation. This change was proposed on a revenue neutral basis. The Companies proposed that this change be effective as of September 1, 1999, the effective date of the consolidation.

b. The 1/14/99 Stipulation approved new non-basic rates for the consolidated company that would provide uniform non-basic charges for all of the exchanges that had previously been served by the three separate companies. This enabled the consolidated companies to substantially simplify and make uniform their tariff rates for non-basic charges. However, in implementing that change, the Companies discovered that one item had been inadvertently omitted: charges for off-premise extensions. The Companies have requested that the different charges for this service previously made by the three separate companies be combined on a revenue neutral basis into a single schedule of these charges for KTC post consolidation. The Companies proposed that this change become effective as soon as practicable following entry of a final order by the Commission in these dockets.

B. OCA

The Office of the Consumer Advocate supported the Staff’s position with regard to the revenue requirements of the consolidated company. OCA presented no testimony on the issue.

C. STAFF

Staff presented the testimonies of Mary Hart, Utility

Analyst III, Thomas Lyle, Utilities Analyst III, and Andrew Kosnaski, Economist II. The Staff recommended a reduction in annual intrastate operating revenue for the three companies combined in the total amount of $526,596. Staff alleged that CTC and KTC were overearning $183,044 and $351,186 respectively and MTC was underearning $7,834. This portion of Staff’s testimony did not reflect the agreed-upon $270,345 net revenue reduction from the Companies’ recent expansion of EAS. In response to ongoing discovery, Staff presented rebuttal testimony of Ms. Hart, Mr. Kosnaski and Steven Frink, Assistant Finance Director, revising its previous overearnings conclusion and recommended an annual revenue reduction for the Companies in the combined amount of $92,994.

III. THE AGREEMENT

Following the filing of testimony, the parties continued to analyze, discuss and negotiate the issues in the case. This process ultimately led to settlement (the “Agreement”). The Agreement encompasses the Parties’ and Staff’s intentions with respect to the establishment of permanent rates pursuant to RSA 378:28, recovery of TDS’s expenses of this proceeding, and other related matters.

With regard to permanent rates, the parties and Staff agreed that the current temporary rates for the consolidated TDS should become the permanent rates for TDS, retroactive to the date that such temporary rates were established.

In the 1/14/99 Stipulation, TDS agreed that it would not seek any increase in retail rates for any of the six exchanges that would be effective prior to January 14, 2001. This “stay-out” was extended until October 15, 2001 given the difficulties of using 1999 as a test year for any rate case. By agreement, this 2-year stay-out does not apply to various exogenous changes that are beyond the control of KTC, provided that no retail rate increase shall be allowed except after request to and approval by the Commission.

The Parties and Staff agreed that (a) KTC shall combine, on a revenue-neutral basis, the depreciation schedules it inherited from CTC and MTC as a result of the previously-approved consolidation, and (b) KTC shall combine, on a revenue-neutral basis, the “off premise extension” tariffs it inherited from CTC and MTC as a result of the previously approved consolidation.

KTC agreed that it shall develop by December 31, 2000, continuing property records that conform to the Commission’s regulations for all property currently in service for all asset categories except for outside plant placed in service prior to January 1, 1998. For outside plant placed in service prior to January 1, 1998, KTC agreed that it will work with the Staff to develop a program to provide information for such outside plant. KTC further agreed that it shall conduct a depreciation study of its plant at the same time and in the same manner as shall be performed by the other ICOs under a future Commission statewide initiative, subject only to KTC's development of appropriate continuing property records as described above.

The Parties and Staff agreed, with respect to that KTC's case expenses, that all reasonable legal expenses related to the consolidation of the three companies shall be capitalized, included in rate base, and amortized straight-line over five (5) years commencing January 1, 2000. All other legal expenses, all expert witness expenses, and all of TDS's internal expenses will be expensed by KTC in 1999 and treated as an allowed operating expense during that year only.

IV. COMMISSION ANALYSIS

These dockets were initially opened for the purpose of addressing the issue of the Companies' earnings. In addition to resolving the earnings issue, the Agreement addresses the issues of rate case expenses, continuing property records, various revenue neutral tariff consolidations, and a two-year stay-out by TDS.

The Agreement's provisions on permanent rates, coupled with the treatment of rate case expenses, means that the customers of TDS will see no change in their basic rates and no surcharge for rate case expenses.

Together with the 1/14/99 Stipulation, this Agreement provides significant benefits to the customers of these three companies now served by KTC. First, all customers have received an expanded calling area under which they can call toll free to their home and contiguous exchanges at a monthly rate which is no higher than the equivalent Bell Atlantic rate. Next, the two-year stay-out provides assurances to the customers that their rates will be stable through at least October 15, 2001, except for certain exogenous changes beyond the control of KTC. Finally, the Agreement makes revenue-neutral rate design changes that make uniform tariff rates for non-basic charges, and some affected customers may experience slight shift in these charges.

After considering the Agreement that was presented to the Commission and the number of issues that it resolves, the Commission finds that the Agreement is an appropriate resolution of the issues involved, and that its effects are just and reasonable.

Based upon the foregoing, it is hereby

ORDERED, that the Agreement entered into by the Parties and Staff is hereby approved; and it is

FURTHER ORDERED, that KTC shall file appropriate tariff pages to effectuate the permanent rates approved in the Agreement; and it is

FURTHER ORDERED, that KTC shall file appropriate tariff pages to effectuate the “off-premises extension” rates, to be effective prospectively.

By order of the Public Utilities Commission of New Hampshire this sixth day of December, 1999.

Douglas L. Patch Chairman	Susan S. Geiger Commissioner	Nancy Brockway Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary