

DT 01-221

KEARSARGE TELEPHONE COMPANY

Petition For Approval Of An Alternative Form Of Regulation

Prehearing Conference Order

O R D E R N O. 23,925

March 1, 2002

APPEARANCES: John C. Lightbody, Esquire, for Kearsarge Telephone Company (and TDS); Anne Ross, Esquire, for the Office of Consumer Advocate; and Lynmarie Cusack, Esquire, for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On November 9, 2001, Kearsarge Telephone Company (Petitioner or Company) filed with the New Hampshire Public Utilities Commission (Commission) a Petition for Approval of an Alternative Form of Regulation. Accompanying the Petition was the Company's Alternative Regulation Plan filed pursuant to NH RSA 374:3-a and NH Admin. Rule Puc Rule 206.07.

On November 16, 2001, the Commission issued an Order of Notice scheduling a Prehearing Conference for February 1, 2002, to be followed by a Technical Session. The Order of Notice also required intervention requests to be filed prior to the Prehearing Conference. On November 21, 2001, the Office of Consumer Advocate (OCA) notified the Commission that it would be participating in this docket on behalf of residential ratepayers. No other requests for intervention

were filed. The Prehearing Conference and Technical Session were held as scheduled, with the Company, Staff, and the OCA participating. Also in attendance at both events was a representative from Verizon New Hampshire.

II. PRELIMINARY POSITIONS OF THE PARTIES AND STAFF

A. Kearsarge Telephone Company

According to the Company, its proposed Alternative Regulation Plan is in the public interest as it will minimize its regulatory burden, maintain excellent reliable service at affordable rates, encourage network investment, provide an opportunity for Petitioner to realize a reasonable return, and further the telecommunications policy of the state of New Hampshire. It believes that the Plan is in the public good. In support of its position, the Company informed the Commission that TDS, which operates Kearsarge here in New Hampshire and other ILECs in various states, has filed similar plans for alternative regulation in ten other states, covering approximately 33 independent telephone companies operated by TDS, which constitutes approximately one-third of the total number of companies operated by TDS. The Company notes that elements in the plan submitted to this Commission are similar to the plans existing in other states.

B. Office of Consumer Advocate

The OCA posits that it is not, in principle, opposed to an alternative form of regulation. It notes, however, several concerns regarding the Plan proposed by the Company. For example, the OCA believes that a good benchmark establishing current and projected costs, revenues, and earnings is a necessary element of this case.

Additionally, the OCA asserts that the ultimate outcome of imposing an alternative form of regulation should be just and reasonable rates for the ratepayers of New Hampshire. The OCA suggests that if a form of alternative regulation is approved, it would like to see protection on behalf of New Hampshire consumers regarding rate rebalancing. Finally, the OCA expressed concerns over the large growth factor proposed by Kearsarge allowing increases on non-basic services.

C. Commission Staff

Staff contends that like the OCA it is not fundamentally opposed to alternative forms of regulation. Staff asserts that New Hampshire law clearly allows for consideration of such plans. Staff, however, notes that it shares the concerns of the OCA. It believes that a rate case is necessary to determine a base line for the Company. Staff

also claims that under both New Hampshire statute and Puc 206.05(e), it must first be established how rates are to be charged under the alternative form of regulation and how they compare to rates charged under other methods of regulation.

Additionally, Staff believes that a discovery period is critical for a full understanding of the proposal.

Staff also raised the issue of quality of service. Staff suggested it would need to explore how, specifically, the Company intends to do to ensure that under its proposed plan, ratepayers would receive the benefit of a high level of continued service.

III. PROPOSED PROCEDURAL SCHEDULE

Following the Prehearing Conference, the Parties and Staff met in a Technical Session to discuss a procedural schedule for completing this docket. The following schedule was agreed upon and recommended to the Commission by letter from Staff dated February 14, 2002.

Refinement of Filing	03/01/02
Data Requests	03/22/02
Data Responses	04/19/02
Technical Session	05/07/02
Company Testimony	06/07/02
Second Data Requests	06/28/02

Second Data Responses	07/26/02
Technical Session/Settlement Conference	08/13/02
Parties and OCA Testimony	09/06/02
Company Data Requests	09/20/02
Staff & OCA Data Responses	10/18/02
Rebuttal Testimony	11/01/02
Data Requests	11/08/02
Data Responses	11/22/02
Settlement Conference	12/03/02
Hearing	12/16-17/02

IV. COMMISSION ANALYSIS

Kearsarge Telephone Company's filing raises significant policy issues for consideration by this Commission. In Order No. 20,149, where the issue of an alternative regulation plan was first addressed, we noted that the "approaches to alternative regulation are somewhat disparate" but there was a constant theme that the drive to modernize and improve efficiency of the LEC should not be made at the expense of the customers. We also expressed concerns over adopting certain forms of alternative regulation. For this reason, we are inclined toward a more thorough and formal proceeding. Accordingly, we agree that a period of discovery is necessary in this case. Analysis and testimony should be

developed to determine whether an alternative form of regulation is appropriate and in the public interest when the telecommunications market still encompasses the entire gamut of monopolistic to competitive market characteristics.

Also necessary in deciding the case is the base line on rates. The standards for approval require us to find that the rates charged by the utility are not unduly discriminatory, are just and reasonable, and provide the Company with the opportunity to earn a reasonable rate of return on its investment.

In order to evaluate any alternative regulation proposal, the Commission needs to make a determination to ascertain the appropriate starting point. Accordingly, a rate case should be conducted simultaneously with the review of the alternative regulation proposal. What is not clear from the proposed schedule, however, is whether the Staff and Parties contemplated conducting the rate case concurrently. Given the length of the schedule, we believe a rate case can be accomplished in the time allotted for the case. Thus, when the Company files testimony on its alternative regulation plan, it should also file testimony regarding revenue requirements. The Company should also file the materials and documents listed in Puc 1604.01(a) by May 1, 2002.

We believe the schedule as proposed is reasonable to accomplish the goals of the proceeding and, therefore, adopt it with the specifics we have addressed regarding a rate investigation.

Based upon the foregoing, it is hereby

ORDERED, that the procedural schedule as proposed herein is reasonable and is hereby adopted, with the additions outlined above; and it is

FURTHER ORDERED, that testimony is to be filed by the Company regarding revenue requirements at the time its testimony in this docket is due; and it is

FURTHER ORDERED, that the Company shall file materials and documents pursuant to NH Admin. Rule Puc 1604.01(a) by May 7, 2002.

By order of the Public Utilities Commission of New Hampshire this first day of March, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

DT 01-221

-8-

Debra A. Howland
Executive Director & Secretary