

Exhibit 2 - Public

**STATE OF NEW HAMPSHIRE
BEFORE THE PUBLIC UTILITIES COMMISSION**

DT 11-____

**PETITION OF UNION TELEPHONE COMPANY FOR
APPROVAL OF AN ALTERNATIVE FORM OF REGULATION**

**PREFILED DIRECT TESTIMONY OF THOMAS E. MURRAY
ON BEHALF OF UNION TELEPHONE COMPANY**

FEBRUARY 1, 2011

1 **PREFILED DIRECT TESTIMONY OF THOMAS E. MURRAY**

2 **Q. Please state your name and business address.**

3 A. My name is Thomas E. Murray and my business address is 24 Depot Square, Unit
4 2, Northfield, Vermont 05663.

5 **Q. By whom are you employed, and in what capacity?**

6 A. I am employed by TDS Telecom Service Corporation (“TDS Telecom”) as
7 Manager - State Government Affairs in TDS Telecom’s Government and
8 Regulatory Affairs Department. I have responsibility for the State Regulatory
9 affairs and State Legislative affairs in Maine, New Hampshire, Vermont and New
10 York.

11 **Q. Please describe your relevant background and experience.**

12 A. My background includes twenty years in the telecommunications field including
13 seven years of employment at TDS Telecom, four years with Rural Cellular Corp.
14 and six years in Vermont state government. I have most recently served as the
15 Chief Information Officer for the State of Vermont and as Executive Director of
16 the Vermont Telecommunications Authority.

17 **Q. What are your duties at TDS Telecom?**

18 A. I directly manage regulatory, legislative and industry relations for 21 TDS
19 Telecommunications Corporation (“TDS”) ILECs in the four-state area I
20 mentioned earlier. I have direct responsibility for each state’s regulatory and

1 legislative activity. Duties include monitoring and participation in regulatory
2 dockets and proceedings, as well as legislative and industry activities.

3 **Q. Do you consider the information contained in your testimony to be**
4 **confidential in nature?**

5 A. Yes, a portion of my testimony describes analysis of our competition and future
6 plans for Union Telephone Company (“Union” or “the Company”) and is
7 therefore competitively sensitive. A Motion for Confidential Treatment on behalf
8 of Union accompanies this testimony.

9 **Q. What is the purpose of your testimony?**

10 A. My testimony is submitted in support of the petition by Union to adopt an
11 Alternative Regulation Plan (the “Plan”, which is Exhibit 1 to the petition)
12 pursuant to New Hampshire RSA 374:3-b, and is in two parts. In Part 1, I review
13 the eligibility criteria under that statute for approval of such a plan and describe
14 how Union and the Plan meet each of those criteria. In Part 2, I review additional
15 items related to the Plan not covered in Part 1.

16 **Q. Why is Union seeking Alternative Regulation at this time?**

17 A. The rapid evolution of competitive wireless, wireline and Voice over Internet
18 Protocol (“VoIP”) providers has created a situation where traditional telephone
19 companies require marketing flexibility and comparable regulation in order to
20 survive. In Union’s particular circumstance, a cable telephone provider operating
21 throughout Union’s service territory enjoys considerably less regulation than
22 Union and has garnered market share from Union. Union is now a member of the

1 TDS family of companies and TDS believes that all of their New Hampshire
2 companies should have a level playing field with their competitors. Competition
3 in these various forms presents a significant threat to the viability of small
4 telephone companies and our ability to sustain our universal service
5 commitments. Union and TDS believe it is in the best interest of the Company,
6 its customers and the State of New Hampshire to grant alternative regulation
7 status to Union, so that Union can compete and continue to provide services to
8 rural New Hampshire residents and businesses.

9 **PART 1 – ELIGIBILITY CRITERIA REVIEW OF THE PLAN**

10 **Q. Does Union meet the threshold eligibility requirements of RSA 374:3-b?**

11 A. Yes. As required by RSA 374:3-b, II, Union is an incumbent local exchange
12 carrier subject to rate-of-return regulation and serves fewer than 25,000 access
13 lines. Union serves approximately 5,300 access lines in a service territory
14 comprised of the Alton, Barnstead, Center Barnstead, Gilmanton Iron Works, and
15 New Durham exchanges.

16 **Q. What standard have you applied in your analysis?**

17 A. I have followed RSA 374:3-b, III, which states:

18 “The Commission shall approve the alternative regulation plan if it finds
19 that:

20 (a) Competitive wireline, wireless, or broadband service is
21 available to a majority of the retail customers in each of the exchanges
22 served by such small incumbent local exchange carrier;

23 (b) The plan provides for maximum basic local service rates at
24 levels that do not exceed the comparable rates charged by the largest
25 incumbent local exchange carrier operating in the state and that do not
26 increase by more than 10 percent in each of the 4 years after a plan is

1 approved with the exception that the plan may provide for additional rate
2 adjustments, with public utilities commission review and approval, to
3 reflect changes in federal, state, or local government taxes, mandates,
4 rules, regulations, or statutes;

5 (c) The plan promotes the offering of innovative
6 telecommunications services in the state;

7 (d) The plan meets intercarrier service obligations under other
8 applicable laws;

9 (e) The plan preserves universal access to affordable basic
10 telephone service; and

11 (f) The plan provides that, if the small incumbent local exchange
12 carrier operating under the plan fails to meet any of the conditions set out
13 in this section, the public utilities commission may require the small
14 incumbent local exchange carrier to propose modifications to the
15 alternative regulation plan or return to rate of return regulation.”

16 **Q. Please describe your analysis and your conclusions regarding the Petition**
17 **and Plan.**

18 A. I will discuss each of the criteria in turn.

19 **1. RSA 374:3-b, III(a) – Availability of Competitive Alternatives**

20 **Q. Is a competitive local exchange carrier certified to provide service in each of**
21 **Union’s exchanges?**

22 A. Yes. On September 19, 2008, MetroCast Cablevision of New Hampshire, LLC
23 (“MetroCast”), applied to the New Hampshire Public Utilities Commission (the
24 “Commission”) to amend its certification as a competitive local exchange carrier
25 (“CLEC”) to add Union’s service territory to MetroCast’s existing service in the
26 territory of Northern New England Telephone Operations LLC, d/b/a FairPoint
27 Communications (the “2008 MetroCast Application”). On September 30, 2008,
28 the Commission issued a certificate which authorized MetroCast to provide local
29 exchange service in each of the exchanges served by Union. Copies of the

1 MetroCast Application and the Commission's certificate of authority are attached
2 hereto as Attachments A-1 and A-2, respectively.

3 In addition, on February 19, 2009 (as amended on February 23, 2009),
4 IDT America, Corp. ("IDT") applied to the Commission to amend its certification
5 as a CLEC to add Union's service territory to its existing authority to serve in
6 FairPoint's New Hampshire exchanges (the "IDT Application"). On March 6,
7 2009, the Commission issued a certificate which authorized IDT to provide local
8 exchange service in each of the exchanges served by Union. Copies of the IDT
9 Application and the Commission's certificate of authority are attached hereto as
10 Attachments B-1 and B-2, respectively.

11 On January 18, 2011, the Commission redesignated both MetroCast and
12 IDT as CLECs in Union's service territory, following proceedings required by a
13 remand order from the New Hampshire Supreme Court. *See* DT 08-130 & 09-
14 065, Order No. 25,193 (Jan. 18, 2011).

15 As MetroCast explained to the Commission, in an attachment to the 2008
16 MetroCast Application, MetroCast and IDT have a commercial relationship in
17 which MetroCast offers cable-broadband service to its end-user customers over its
18 existing cable-plant facilities, and IDT

19 "provide[s] MetroCast with connectivity to the Public Switched
20 Telephone Network ('PSTN'), local number port-in and port-out,
21 enhanced 911 interconnection, operator/directory assistance,
22 directory listings, and the necessary numbering resources to
23 service MetroCast end-user customers located in MetroCast's
24 service area in New Hampshire. IDT will provide an end-to-end
25 solution by integrating the IP platform to deliver a fully automated
26 digital phone and high-speed data provisioning solution including
27 PSTN service activation and interconnection. MetroCast's two-

1 way cable plant will be used for an IP-based cable telephony
2 solution.”

3 **Q. Does MetroCast have facilities in place and offer wireline service to a**
4 **majority of the customers in each of Union’s exchanges?**

5 A. Yes. I have attached hereto, as Confidential Attachment C, a signed affidavit
6 provided by Jeffrey P. Drapeau, the General Manager for MetroCast.
7 Accompanying Mr. Drapeau’s affidavit, as Confidential Attachment C-Exhibit 1,
8 are confidential MetroCast maps with detailed information showing MetroCast’s
9 cable telecommunications plant (highlighted in green). MetroCast has also
10 included on the maps a count of the homes and businesses not passed by
11 MetroCast’s cable routes in each municipality. In his affidavit, Mr. Drapeau then
12 indicates the number of homes and businesses passed by MetroCast and confirms
13 that MetroCast passes a majority of homes in each of the municipalities in
14 Union’s service territory, and also that MetroCast offers bundled and unbundled
15 voice services and high-speed Internet service to all homes passed by their
16 facilities.

17 Using the data from the confidential MetroCast maps, Union has prepared
18 Highly Confidential Attachments D-1 through D-5, respectively, which are
19 service territory maps for each of Union’s five exchanges with the MetroCast-
20 provided cable routes included. In addition, Union has plotted the homes and
21 businesses in each of the Union exchanges; these customers are shown as red dots
22 on the maps. These maps clearly show that MetroCast has facilities in place to
23 offer wireline service to a majority of the customers in the Union exchanges of
24 Alton (Highly Confidential Attachment D-1), Barnstead (Highly Confidential

1 Attachment D-2), Center Barnstead (Highly Confidential Attachment D-3),
2 Gilmanton Iron Works (Highly Confidential Attachment D-4) and New Durham
3 (Highly Confidential Attachment D-5).

4 **Q. Please explain the differences between the MetroCast maps (Confidential**
5 **Attachment C-Exhibit 1) and the Union maps (Highly Confidential**
6 **Attachment D).**

7 A. MetroCast has provided confidential maps of its cable plant on a municipality-
8 specific basis, which is consistent with their municipality-specific franchise
9 authority. However, Union's burden under RSA 374:3-b, III(a) requires evidence
10 of service availability for each exchange, rather than for each municipality.

11 Union has taken the cable plant data from the MetroCast municipal maps and
12 overlaid Union's exchange boundaries and customer locations. The resulting
13 maps (Highly Confidential Attachments D-1 through D-5), which show each of
14 Union's exchanges, with Union customer locations overlaid on MetroCast's cable
15 facility maps, clearly indicate that MetroCast can serve a majority of customers in
16 each Union exchange. In the case of the Center Barnstead exchange, Union has
17 also included totals for the number of customers passed by MetroCast facilities
18 and the total customers in the exchange. This is because a simple visual depiction
19 of the customer locations might raise a question of whether MetroCast service is
20 available to the majority of customer locations. But in fact, as reflected in the
21 number totals, [REDACTED] customer locations in Center Barnstead have
22 MetroCast service available to them.

1 **Q. Have any Union access lines been ported to IDT on behalf of MetroCast since**
2 **its September 30, 2008, certification date?**

3 A. Yes. Union began porting numbers from Union to IDT on behalf of MetroCast in
4 January 2010. Confidential Attachment E shows that [REDACTED] access lines have been
5 ported from Union to IDT through January 16, 2011.

6 **Q. Are you providing any information in your testimony related to the level of**
7 **wireless or broadband service that is available in the Union exchanges?**

8 A. We are not providing any wireless competition data at this time. The MetroCast
9 data that is provided within this testimony conclusively demonstrates that a third-
10 party wireline alternative is currently available to the majority of the customers in
11 each of the Union exchanges. MetroCast, as shown in their affidavits and
12 discussed in this testimony, provides competitive broadband services on 100% of
13 their cable plant facilities within the Union exchanges. This enables VoIP
14 offerings from numerous other providers, such as Vonage or Skype, as further
15 competition to Union's voice services.

16 **Q. Are the MetroCast wireline voice and broadband services currently offered**
17 **in the Union exchanges competitive services and sufficient to permit**
18 **alternative regulation under the Plan?**

19 A. Yes. MetroCast is a Competitive Local Exchange Carrier operating in each of
20 Union's exchanges. MetroCast competes directly with Union for the privilege of
21 providing local exchange telephone service and broadband to the majority of the
22 customers in each of Union's exchanges. As discussed above, Confidential
23 Attachment E shows the number of access lines we have ported directly to

1 MetroCast/IDT in just over one year. Moreover, in a recent order approving a
2 similar alternative regulation plan for Kearsarge Telephone Company (“KTC”),
3 the Commission considered the availability of a competitive VoIP offering by
4 Comcast in the KTC service area and found that, “[b]ecause Comcast is offering
5 wireline voice services in the KTC exchanges, we are persuaded that it is
6 providing a competitive alternative to TDS’ voice service.” DT 07-027, Order
7 No. 25,182 (Dec. 22, 2011) (“KTC Order”), at 23. The Commission also found
8 that “Comcast is offering a service that is drawing some of KTC’s customers
9 away, which is evidence that this alternative is competitive, as the term is used in
10 the statute.” KTC Order, at 25.¹

11 **Q. Does MetroCast offer competitive voice service in each of Union’s**
12 **exchanges?**

13 A. Yes. In addition to Mr. Drapeau’s affidavit, MetroCast has also provided a
14 second affidavit (Confidential Attachment F), prepared by Joshua Barstow, Vice
15 President of Advanced Services for MetroCast. Mr. Barstow’s affidavit explains
16 MetroCast’s service availability and provides detailed pricing and marketing
17 information on MetroCast’s voice offerings throughout the Union exchanges. Mr.
18 Barstow’s affidavit further reinforces the evidence mentioned above regarding the
19 percentage of homes covered by MetroCast and provides product pricing
20 information as well as a MetroCast marketing brochure. Mr. Barstow states:
21 “MetroCast makes available to all addresses for which it has facilities in the
22 Union service territory a voice only offering”. The two affidavits together

¹ Order No. 25,182 is presently subject to a motion for rehearing filed on January 19, 2011.

1 underscore the conclusions I have reached regarding the scope of MetroCast's
2 coverage and the competitiveness of their service offerings to customers in
3 Union's exchanges.

4 **Q. Is there any additional information you wish to provide regarding the level
5 and impact of competition in the Union service territory?**

6 A. Yes, I believe it is important to consider the impact of competition and line loss in
7 total for a small telephone company such as Union. I have included Attachment
8 G, which is a table showing Union's total access line loss from Year-End 2004
9 through Year-End 2010. During this period, the number of Union's access lines
10 dropped from 7,815 to 5,273, a total loss of 2,542 access lines, or 32.5% of
11 Union's access lines, over a 6-year period. This table provides further proof of
12 the impact of competition and line loss [REDACTED]
13 [REDACTED] further reinforcing the need for the additional flexibility that alternative
14 regulation would provide to Union.

15 **2. RSA 374:3-b, III (b) – Price Cap for Basic Service**

16 **Q. Please briefly describe the pricing provisions of the Alternative Regulation
17 Plan.**

18 A. For purposes of conforming the Plan to the objectives of the statute (i.e.,
19 significantly reducing regulation of retail services while preserving universal
20 service and meeting intercarrier obligations), the services are put into three
21 buckets: (i) basic retail services, (ii) non-basic retail services and (iii) wholesale
22 services. While it is defined further within the Plan, basic retail services are

1 residential and business single-party line voice services that include the additional
2 features that constitute “basic service” as defined in Puc 402.05 and Puc 412.01.

3 Wholesale services are those services that are provisioned to other
4 telecommunications carriers for interconnection of networks (e.g., switched
5 access, reciprocal compensation, special access). Any other services that do not
6 fall within the definitions of basic retail services or wholesale services are
7 classified as non-basic retail services.

8 **Q. How are rates for basic retail service set up under the Plan?**

9 A. As required by the guiding statute, rates for basic retail services cannot be raised
10 higher than the rates charged by the largest incumbent local exchange carrier in
11 New Hampshire (the “Rate Cap”). Essentially, Union will be able to adjust basic
12 retail service rates at its own discretion as long as it does not exceed this Rate
13 Cap. In addition, each basic retail service rate cannot increase by more than 10
14 percent each year for the initial four years under the Plan (the “Annual Percentage
15 Rate Cap”). With these two rate cap elements, the Plan meets the requirements of
16 RSA 374:3-b, III(b).

17 **Q. Please identify the current monthly residential single-party line voice service
18 rate at each of Union’s exchanges, and the corresponding rate cap.**

19 A. The current monthly residential single-party line voice service rate is \$13.21 for
20 each Union exchange. The current corresponding Rate Cap will be \$14.43, with
21 the exception of the Center Barnstead exchange, which will have a Rate Cap of
22 \$15.71. These Rate Caps are based on FairPoint’s current local rate groups,
23 which vary based on the number of callable access lines in the local calling area.

1 The reason for the higher Rate Cap in the Center Barnstead exchange is because
2 Center Barnstead has a larger local calling scope, which would place them in a
3 higher FairPoint local rate group as compared to the other Union exchanges and
4 thus produces a higher Rate Cap.

5 **Q. How does the Plan impact the 14-month Stay Out Period agreed to by**
6 **stipulation in DT 09-136 (Union Telephone Company Transfer of Assets to**
7 **TDS Telecom)?**

8 A. In Order No. 25,045 (Nov. 20, 2009), issued in Docket DT 09-136, the
9 Commission approved the stipulation agreement reached among TDS, Union, the
10 Office of Consumer Advocate, and Commission Staff. Page 6 of that order states

11 “TDS Telecom and Union will not file with the Commission at any point
12 in time earlier than 14 months following the transition from Union’s
13 present operational support systems for regulated services to TDS
14 Telecom’s operational support systems for regulated services (the
15 “Transition”, and the fourteen month period following the Transition
16 being the “Stay Out Period”) a petition for an increase in Union’s New
17 Hampshire basic retail rates to take effect during the Stay Out Period.”

18 Under the Plan, Union is not able to increase basic retail rates until 14 months
19 following the Transition, which took place on July 26, 2010. The Stay Out Period
20 thus expires as of September 26, 2011.

21 **Q. Are exogenous adjustments made to the rates for basic retail service used in**
22 **determining the Rate Caps or the Annual Percentage Rate Cap?**

23 A. Yes. In addition to rate changes allowed under the statutory Rate Caps, the Plan,
24 pursuant to RSA 374:3-b,III(b) authorizes additional rate adjustments that are
25 made as a result of exogenous changes as defined within the statute. As a result,

1 the Rate Cap and Annual Percentage Rate Cap can be adjusted to reflect the Rate
2 Cap plus or minus any changes made due to an exogenous event.

3 **Q. Could you explain the exogenous change provision of the Plan?**

4 A. The purpose of the exogenous change provision is to allow the Company to make
5 changes to its rates for basic retail services due to financial impacts that result
6 from a governmental action that is not within the control of the Company.

7 Specifically, an exogenous event is a change in any single federal, state, or local
8 government tax, mandate, rule, regulation, or statute that would cause a change in
9 Union's total intrastate regulated revenue, expenses, or plant in service, of more
10 than 5% in any twelve-month period, as compared to the base period. Any
11 change in rates resulting from an exogenous change must receive the approval of
12 the Commission. The process would entail the Company filing a petition with the
13 Commission (or the Commission acting upon its own motion) seeking such
14 adjustments to a basic retail service rate beyond those allowed within the Plan.
15 After an opportunity for a hearing on the matter, the Commission would either
16 approve or deny the petition.

17 While it is not anticipated that there will be many exogenous events, the
18 provision is needed to allow for events that are outside the control of the
19 Company. For example, if the Federal Communications Commission eventually
20 implements a new regime for intercarrier compensation, the Company may need
21 to adjust its basic retail rates to reach a specific national benchmark rate before
22 drawing from a national funding mechanism. Such a government mandate would

1 likely require the Company to adjust its basic retail rates beyond the limit allowed
2 for under its Plan.

3 **Q. Will Union be able to offer customers bundles of services that include basic**
4 **retail service?**

5 A. Yes. As long as the basic retail service in the bundle is available separately to the
6 customer, Union will also be able to offer it in a bundle with any other regulated
7 or unregulated services. The rates for the bundle will not be limited by a cap or
8 any other restriction. However, customers desiring the stand-alone basic retail
9 service will continue to be able to purchase it subject to the rate cap.

10 **Q. How are rates for non-basic retail service set under the Plan?**

11 A. Under the Plan, rates for non-basic retail services will be subject to the same very
12 limited regulation that competitive companies face, i.e., the limits on these rates
13 will be set by the market, not by regulation.

14 **3. RSA 374:3-b, III(c) – Innovative Services and RSA 374:3-b, III(d)**

15 **Intercarrier Obligations**

16 **Q. Does the Plan promote the offering of innovative telecommunications**
17 **services in New Hampshire and meet intercarrier service obligations under**
18 **applicable law?**

19 A. Yes. Under the Plan, Union will not oppose Commission certification or
20 registration of any company seeking to do business as a CLEC in its service
21 territory. In addition, the Company agrees to waive the federal rural exemption as
22 qualified in the Plan, and agrees to shorter timeframes for negotiating

1 interconnection agreements. When presented with identical provisions in a
2 settlement agreement for an analogous proceeding involving Wilton Telephone
3 Company, Inc. (“Wilton”) and Hollis Telephone Company, Inc. (“Hollis”) in DT
4 07-027, the Commission found that the

5 “agreements in the settlement: not to oppose CLEC registration, to waive
6 the rural exemption, and to agree to shorter time frames for negotiating
7 interconnection agreements, fulfill both 374:3-b, III(c) and (d). By
8 reducing barriers to competitive wireline entry, the TDS Companies have
9 clearly enhanced competition and thereby promoted the offering of
10 innovative telecommunications services. By these concessions the TDS
11 Companies have also enhanced their intercarrier service obligations in
12 support of 374:3-b, III(d).” (DT 07-027, Order No. 24,852 (Apr. 23,
13 2008), at 28.)

14 In addition, Union commits to providing its customers with a high quality
15 network by making investments in its telecommunications infrastructure as well
16 as maintaining the network to ensure its reliability for the provisioning of high
17 quality telecommunication services to its customers throughout its service
18 territory. The Company will also regularly assess the satisfaction of its customers
19 under the Plan. Moreover, the Commission will continue to maintain the ability
20 to monitor the provisioning of service by the Company to its customers.

21 Specifically, Union will continue reporting service quality metrics to the
22 Commission, which will aid it in ensuring that customers are receiving adequate
23 service. In the analogous KTC proceeding in DT 07-027, which I previously
24 discussed, the Commission recently found as follows:

25 “The plan specifically provides, in section 5.1, that KTC will commit to
26 maintain its network in such a manner that it will be able to offer state-of-
27 the-art, innovative services to its customers, either through itself or its
28 wholesale providers. Moreover, in section 5.1.2, KTC commits to assess
29 its customers’ satisfaction. In that KTC has committed to maintaining a
30 network sufficient to provide innovative services and that it will, with the
31 same goal, be assessing the satisfaction of its customers, we find that the

1 plan promotes the offering of innovative telecommunications services as
2 required by RSA 374:3-b, III(c).” See DT 07-027, Order No. 25,182 (Dec.
3 22, 2010), at 26-27.²

4 **Q. How are rates for wholesale services set under the plan?**

5 A. Under the Plan, there are no changes to the existing level of regulation regarding
6 the pricing, tariffing, or other state and federal intercarrier obligations concerning
7 Union’s provisioning of wholesale services. Union shall meet its intercarrier
8 obligations under other applicable laws including, without limitation, the federal
9 Telecommunications Act of 1996 and applicable successor legislation.

10 **4. RSA 374:3-b, III(e) – Universal Service**

11 **Q. Does the Plan preserve universal access to affordable basic telephone
12 service?**

13 A. Yes. Union will continue investing in its network to meet customers’ needs,
14 ensuring that customers receive essential services. In addition, Union will
15 continue to provide service as the carrier of last resort. Moreover, the extensive
16 competition in each of Union’s exchanges, together with the limitations on basic
17 service rates under the Plan, will ensure that basic telephone service will remain
18 available and affordable. Finally, Union will continue to participate in the federal
19 universal service program and maintain its status as an eligible
20 telecommunications carrier under 47 U.S.C. § 254.

21 **5. RSA 374:3-b, III (f) – Modification or Termination**

² As noted in footnote 1 above, a motion for rehearing is pending for Order No. 25,182.

1 **Q. What would happen under the Plan in the event that Union fails to meet any**
2 **of the conditions for alternative regulation set forth in RSA 374:3-b?**

3 A. In such an event, the Commission would be able to enforce Union's compliance
4 with any such condition, require modification of the Plan to achieve such
5 compliance or order the Company to return to rate-of-return regulation. An
6 evidentiary hearing would be afforded Union to determine whether or not it was
7 meeting the conditions set forth in RSA 374:3-b.

8 **Q. What conclusion have you reached as a result of your review of the statutory**
9 **criteria of RSA 374:3-b as they relate to the Company and the proposed**
10 **Plan?**

11 A. I conclude that Union meets the eligibility requirements for approval of an
12 alternative form of regulation and that the Plan satisfies each of the requirements
13 of RSA 374:3-b.

14 **PART 2 – ADDITIONAL REVIEW OF THE PLAN**

15 **Q. What are the goals of the Plan?**

16 A. The goals of the Plan are designed to comply with the specific criteria set forth in
17 RSA 374:3-b. Specifically, the goals are to:

- 18 • Set forth the regulatory requirements applicable to the Company's retail
19 operations that are comparable to the regulation the Commission applies to
20 CLECs.

- 1 • Ensure that a high level of service continues to be provided to the
- 2 Company's customers while maintaining a network that meets customer
- 3 needs and allows customers to have access to innovative services.
- 4 • Facilitate the transition to a competitive telecommunications market in the
- 5 areas served Union.
- 6 • Meet intercarrier service obligations.
- 7 • Preserve universal service by maintaining the status of the Company as the
- 8 carrier of last resort to ensure customers have access to affordable basic
- 9 telephone service.

10 **Q. How does the Plan regulate the retail operations of Union compared to the**
11 **regulation the Commission applies to a CLEC?**

12 A. Pursuant to the statute, under the Plan Union would be regulated in a manner
13 comparable to the regulation that applies to a CLEC. The exceptions are (i) the
14 rate cap on basic retail service rates, (ii) the regulation of wholesale service rates
15 and (iii) the continuing requirement for Union to serve as the carrier of last resort.
16 Appendix 1 of the Plan details the administrative rules of the Commission that
17 will be applicable to Union while it operates under the Plan.

18 **Q. What tariffing requirements are required by the Plan when establishing**
19 **prices for Union's basic and non-basic retail services?**

20 A. Appendix 1 to the Plan lists the PUC Rules that we believe to be in concurrence
21 with RSA 374:3-b. In the case of tariffing, Union will be following the Uniform

1 Tariff requirements of Puc 431.05(a)-(c). The Company will file the Uniform
2 Tariff within 90 days from the Commission's final order approving the Plan.

3 **Q. Please describe how you arrived at the list of administrative rules that will be**
4 **applicable to Union under the Plan.**

5 A. On April 23, 2008, the Commission approved the amended alternative regulation
6 plans of Wilton and Hollis in Order No. 24,852 in DT 07-027. The list of
7 administrative rules in Appendix 1 to Union's Plan is identical in scope to the
8 administrative rules currently applicable to Wilton and Hollis. The proposed list
9 is also identical in scope to the administrative rules that would be applicable to
10 Kearsarge Telephone Company under Order No. 25,182, issued by the
11 Commission on December 22, 2010, although this Order is now subject to a
12 motion for rehearing filed on January 19, 2011.

13 **Q. Does the Plan change the requirements of Order No. 25,045 (Nov. 20, 2009)**
14 **regarding the Service Quality Reporting requirements that Union agreed to**
15 **in DT 09-136 (Transfer of Union Telephone Assets to TDS Telecom)?**

16 A. No. By Stipulation in DT 09-136, which the Commission adopted in Order No.
17 25,045, Union agreed as follows:

18 TDS Telecom shall file on a non-confidential basis quarterly
19 service quality performance reports on behalf of Union for a period
20 of not less than one year following that date on which Union
21 provides written notice to the Staff and the OCA of its ability to
22 track and report service quality data (the "Union Service Quality
23 Tracking Notification").

24 On October 1, 2010, Union notified the Commission in writing that its systems
25 were tracking service quality metrics. In early January 2011, Union submitted the

1 required service quality performance reports for the last quarter of 2010 to the
2 Commission. These reports will continue to be submitted through October 1,
3 2011, as agreed to in the stipulation, after which time Union anticipates
4 transitioning to the service quality reporting obligations specified in the Plan.

5 **Q. What is the term of the Plan?**

6 A. The Plan will be effective on the first day of the month following the issuance of
7 the Commission's final order approving the Plan, and will continue until the Plan
8 is terminated. The Plan does not have a termination date. Union can terminate
9 the Plan upon its own initiative by filing a notice of termination with the
10 Commission. Upon filing such a letter, Union would immediately return back to
11 its prior regulation or, in the alternative, if the Company qualifies for another
12 form of regulation at that time, it could elect that form of regulation. The
13 Commission may also terminate the Plan under Section 2.3 of the Plan as
14 discussed earlier in this testimony.

15 **Q. What are the benefits of the Plan to the customers of Union?**

16 A. The benefits to customers include all benefits brought by competition: attractive
17 pricing and bundling, along with Union's commitment to provide a network that
18 will enable provisioning of innovative services and preserve access to affordable
19 basic telephone service. At the same time, the Plan limits customer risks by
20 limiting basic local rate changes in conjunction with capping basic local service
21 rates. From a customer's point of view this is a "win, win" situation. The
22 company who wants to serve them will have a level playing field to compete with
23 new providers, likely bringing customers better services while assuring the

1 continuation of affordable basic local telephone service. The Commission will
2 continue to monitor the success or failure of the Plan and can act at any time to
3 assure compliance with the provisions of the statute and applicable PUC rules.

4 **Q. Does this conclude your testimony?**

5 **A. Yes, it does.**