at&t

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Via Two Day UPS Delivery

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301-2429

Re: IR 13-038 Stakeholder Review of Utility Assessment System

Dear Ms Howland:

Please find enclosed the Revised Response of AT&T Corp. and TCG New Jersey, Inc. with the response to Request 4 which was revised to include financial information for 2012.

If you have any questions regarding these materials, please give me a call.

Respectfully submitted,

James A. Huttenhower

Enclosures

IR 13-038 Stakeholder Review of Utility Assessment System:
Information Requests
February 18, 2013

<u>Revised Responses of AT&T Corp. and TCG New Jersey, Inc.</u>[1]

1. **The current allocation method is based on a utility's revenues as a percent of the total revenues of all New Hampshire utilities.**

   (a) Do you believe that the allocation method currently specified in statute is fair and reasonable?

   (b) Why or why not?

   (c) If not, what different method(s) of allocation would you propose and why is that method(s) more fair and reasonable?

   (d) What statutory and/or rule changes would be required to utilize the method you propose?

Response:

(a) No.

(b) There are several reasons why the current allocation is not reasonable. First, the method should be changed to reflect the changed telecommunications regulatory situation in New Hampshire as a result of the 2012 enactment of Senate Bill 48 ("SB 48"). AT&T and TCG (collectively "AT&T") are Exempted Local Exchange Carriers ("ELECs") under that law, and the Commission's duties regarding such carriers have lessened considerably. Indeed, SB 48 eliminated the jurisdiction of the Office of Consumer Advocate ("OCA") to petition, initiate, appear or intervene in matters pertaining to the rates, terms or conditions of services provided by ELECs to end user customers. If the Commission's regulatory authority over telecommunications carriers has been reduced, the share of the Commission's expenses paid by the telecommunications sector should also be reduced. Likewise, if the OCA cannot appear in matters at the Commission involving AT&T or TCG, the companies should not be obligated to fund OCA's operations. Second, the current allocation method creates an unfair cross-subsidization of the Commission's expenses between competitive telecommunications carriers (and some incumbent local exchange carriers) that are subject to market regulation, and gas and electric utilities that are subject to rate-of-return regulation. Third, the allocation method is unfair because it is based on the "gross" revenue of utilities and does not take into account the uncollectible portion of that revenue. A carrier should not have to pay an assessment on revenue it has never received.

[1] TCG New Jersey, Inc. merged into Teleport Communications America, LLC as of December 31, 2012, and now does business in New Hampshire under the latter name. However, since the Information Requests seek financial information through the end of 2012, the TCG name will be used in these responses.

(c) The allocation method should be changed to reduce the proportionate share of Commission expenses imposed on telecommunications carriers as a class to reflect the Commission's reduced regulatory authority over ELECs. Accordingly, as an initial proposal, AT&T suggests that telecommunications revenue should be discounted by two-thirds in the allocation method (as currently occurs with certain rural electric cooperatives). In addition, given the elimination of the OCA's authority to participate in matters related to services provided by ELECs to end-user customers, the OCA's expenses should be assessed only on utilities subject to its jurisdiction. Finally, the allocation method should be changed to remove a carrier's uncollectible revenues from the calculation.

(d) The term "gross utility revenue" in RSA 363-A:2 may need to be revised to allow the removal of uncollectible revenue from the calculation of assessments. RSA 362-A:2 also may need to be revised to clarify that the OCA's expenses can only be assessed on utilities subject to its jurisdiction. In addition, the proposed two-thirds reduction (or the final reduction amount that may ultimately be determined) of telecommunications revenues in the allocation method should be written into RSA 363-A:2.

2. Do you believe that the allocation method currently specified in statute is legal and constitutional?

(a) Why or why not?

(b) If not, what different method(s) of allocation would you propose?

(c) What statutory and/or rule changes would be required to utilize the method(s) you propose?

Response: No.

(a) The inclusion of interstate (or international) revenue of ELECs in the allocation is questionable. In the past, the Commission has justified the inclusion of revenue from a utility's interstate services, even though those services are subject to federal jurisdiction, based on its authority to investigate interstate rates under RSA 363:22. SB 48, however, eliminated such authority under RSA 363:22 with regard to any end user of an ELEC or services provided to such an end user.

(b) The allocation method should be changed to exclude interstate and international revenue of ELECs from the calculation.

(c) Please see response to Request 1(d). AT&T is still evaluating this issue.

3. **Do you believe that entities that are not public utilities under RSA 362:2 should be required to fund the Commission's expenses in some way? If so:**
   (a) What non-public utilities should be required to fund the expenses and why?

   (b) What amount of the expenses should non-utilities be required to fund?

   (c) By what mechanism(s) should the monies be collected?

   (d) What is the legal basis for imposing the obligation?

   (e) What statutory and/or rule changes would be required to implement your proposals?

Response: No.

5. **As to any interstate operations of your company within New Hampshire, please state whether such operations rely to any extent on facilities or service providers whose rates, terms of service and/or safety are regulated by the Commission, and if so, identify any and all such facilities and how they relate to such operations.**

Response: AT&T obtains services, on a wholesale basis, from incumbent local exchange carriers in New Hampshire (such as FairPoint) and other carriers, which allow AT&T to provide service to its retail customers in the state. Telecommunications network facilities upon which a carrier relies to provide intrastate or interstate services are typically not partitioned separately by state or interstate jurisdiction so that they are exclusively used for one type of service or the other. In other words, the same network facilities – like a local loop, switching, or transport network facilities – may be used to provide both interstate and intrastate services. Of course, the nature of the services provided over those network facilities may be intrastate (such as local service or intrastate calling) or interstate (such as long distance/interstate calling) and regulated accordingly by either the Commission or the FCC. For purposes of its response to Question 4, however, AT&T has classified services as intrastate or interstate, and identified the corresponding service revenues.

6. **Please provide any further thoughts that you think may be useful in consideration of the issues raised in Docket No. DM12-276 and Commission Order No. 25,451.**

Response: AT&T has no additional comments.