

DW 02-033

WILTON TELEPHONE COMPANY AND HOLLIS TELEPHONE COMPANY

Acquisition By Telephone And Data Systems, Inc.

Prehearing Conference Order

O R D E R N O. 23,955

April 19, 2002

APPEARANCES: Steven Camerino, Esquire, of McLane, Graf, Raulerson & Middleton, for Wilton and Hollis Telephone Companies; John Lightbody, Esquire, of Murray, Plumb & Murray, for Telephone & Data Systems, Inc.; F. Anne Ross, Esquire, of the New Hampshire Office of Consumer Advocate, on behalf of Residential Ratepayers; and Lynmarie Cusack, Esquire, for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On February 22, 2002, Wilton Telephone Company, Inc. (WTC) and Hollis Telephone Company, Inc. (HTC) filed with the New Hampshire Public Utilities Commission (Commission) a notification of a proposed indirect acquisition of their parent company, Telecommunication Systems of New Hampshire, Inc. (TSNH) by Telephone and Data Systems, Inc.(TDS). The filing indicates that TDS, a Delaware corporation and parent to local exchange and exchange access providers in New Hampshire and 28 other states, will acquire all issued and outstanding common stock of TSNH, which currently owns 100% of the issued and outstanding shares of WTC and HTC.

The filing, which included the Companies' Agreement and Plan of Merger dated February 12, 2002, indicated a newly-

formed subsidiary of TDS (TDS Telecom) will be merged with and into TSNH, whereupon the merged TSNH survives as the merger corporation with all stock held by TDS. After the merger, TDS proposes to transfer the stock to TDS Telecom resulting in TDS Telecom becoming the direct parent of Post-Merger TSNH. According to the filing, this arrangement is consistent with the ownership structure of the other TDS ILECs.

The filing further indicates that following the merger and stock transfer, TDS Telecom proposes to eliminate TSNH as the holding company of WTC and HTC. The filing suggests this will be accomplished by either merging TSNH with and into TDS Telecom or by having TSNH transfer all assets, including the stock of WTC and HTC to TDS Telecom, thereby making TDS Telecom the direct parent of WTC and HTC.

Finally, the filing asserts that since TDS is neither a public utility nor a public utility holding company, as used in RSA 374:33, the merger and stock transfers do not come within the scope of that statute. However, the filing represents that if the Commission asserts jurisdiction over the transaction, it should proceed pursuant to RSA 369:8,II(b). The filing contends, therefore, that the transaction as described will have no adverse impact on the rates, terms, service or operation of WTC or HTC as WTC and

HTC are expected to remain separate corporations and wholly-owned subsidiaries of TDS Telecom and neither the tariffs nor the assets, including rate base, will be altered.

Based on the filing, on March 7, 2002, the Commission issued an Order of Notice establishing a Prehearing Conference, which was held at the Commission on March 28, 2002. On March 11, 2002, the Office of Consumer Advocate (OCA) filed its intent to participate in this docket. No other party sought intervention.

II. PRELIMINARY POSITIONS OF THE PARTIES AND STAFF

A. Wilton Telephone Company and Hollis Telephone Company

The Companies believe that the transactions, as outlined in their notification to the Commission, will have no adverse impact on New Hampshire ratepayers. The Companies assert they have provided excellent services to their customers at reasonable rates. However, they also understand that both Staff and OCA have concerns regarding accounting and management issues. The Companies believe that TDS is well-positioned to address those concerns, as well as to continue to provide excellent services at reasonable rates. The Companies believe that TDS is highly experienced in the

management of similar small telephone providers within and outside of New Hampshire.

The Companies believe that the transactions do not technically need Commission approval since TDS is neither a public utility nor a public utility holding company, as used in RSA 374:33; therefore, the Companies assert that the merger and stock transfers do not come within the scope of that statute. Regardless, the Companies believe that the transaction meets the "no adverse impact" standards set forth in RSA 369:8.

B. TDS

TDS agrees with the preliminary position of the Companies and reiterates that it will continue to provide excellent service to customers of the Companies. TDS intends on expanding and improving the quality of customer service and on solving past and current accounting and managerial problems that have existed with the Companies. It is the intent of TDS and the Companies to complete the merger transaction the later of April 30, 2002, or the date when the last regulatory approval is obtained.

C. OCA

OCA did not indicate a position regarding the proposed merger of the Companies with TDS and sought further

information from the Parties by way of discovery. Regarding the issue raised by the Companies of whether the Commission has jurisdictional authority to review this matter, the OCA believes that the New Hampshire statutory scheme clearly gives the Commission authority to review the merger. The OCA believes the Commission should address the issue for this and future dockets regarding proposed mergers with out-of-state entities such as TDS.

D. Staff

Staff generally supports the sale of the Companies but wishes to ensure that TDS is the appropriate purchaser. The Staff agrees with OCA that a period of discovery is necessary. Staff represented that while Wilton and Hollis have had problems with financial reporting, they have generally had no problems with quality of service and wants to ensure that the same quality of service will be maintained by TDS.

III. PROCEDURAL SCHEDULE

Following the Prehearing Conference, the Parties and Staff by letter dated April 1, 2002, recommended the following schedule to the Commission:

Data Requests to the Companies	04/05/02
Technical Session/Settlement Conference	04/18/02
	1:30 pm

Settlement Hearing 04/30/02 10:00 am

In the event an equitable settlement is not reached in this matter, Staff and the Parties agreed to continuing the procedural schedule as follows:

Testimony	04/30/02
Rebuttal Testimony	05/06/02
Hearing (if necessary)	05/10/02 1:30 pm

IV. PREHEARING DETERMINATIONS

Regarding the issue of jurisdiction, while the Companies make a technical claim of lack of jurisdiction, they have also agreed to proceed and participate in this docket as outlined above. Thus, it is not necessary at this time to address this issue, and we will reserve judgment on it.

The Commission also takes official notice of the following dockets:

DT 00-294	Wilton Telephone Company Investigation
DT 00-295	Hollis Telephone Company Investigation
DT 01-040	Wilton Telephone Company Investigation Into Overearnings
DT 01-041	Hollis Telephone Company Investigation Into Overearnings

We have reviewed the Procedural Schedule as proposed herein and determined that it is reasonable for the completion of this docket, with the exception of a change in date for the Technical Session/Settlement Conference, from April 18, 2002, to Friday, April 19, 2002, at 10:00 a.m.

Based upon the foregoing, it is hereby

ORDERED, that the procedural schedule as proposed herein is reasonable and is hereby adopted.

By order of the Public Utilities Commission of New
Hampshire this nineteenth day of April, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary