

Bill as Introduced

SB 22 - AS INTRODUCED

2011 SESSION

11-0998
06/09

SENATE BILL **22**

AN ACT relative to alternative regulation of small incumbent local exchange carriers.

SPONSORS: Sen. Odell, Dist 8

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill modifies the requirements for use of an alternative regulation plan.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~(in brackets and struck through)~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to alternative regulation of small incumbent local exchange carriers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(a) is
2 repealed and reenacted to read as follows:

3 (a)(1) Any combination of the following services is available to a majority of the retail
4 customer premises in such small incumbent local exchange carrier's service area:

5 (A) Wireline or broadband service from other than the small incumbent local
6 exchange carrier;

7 (B) Standalone broadband service from the small incumbent local exchange
8 carrier provided separately from its wireline voice service;

9 (C) Voice service under any service plan as demonstrated solely by the publicly
10 available coverage map of any wireless carrier; or

11 (2) The small incumbent local exchange carrier has 25 percent fewer access lines in
12 service than it did on December 31, 2004;

13 2 Repeal. RSA 374:3-b, III(c), relative to alternative regulation of small incumbent local
14 exchange carriers, is repealed.

15 3 Effective Date. This act shall take effect upon its passage.

SB 22 - AS AMENDED BY THE SENATE

03/30/11 1197s

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2 read as follows:

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4 I. In this section, "small incumbent local exchange carrier" means an incumbent local
5 exchange carrier serving fewer than 25,000 access lines.

6 II. ***Solely at its option***, a small incumbent local exchange carrier subject to rate of return
7 regulation, ***and only such small incumbent local exchange carrier***, may petition the public
8 utilities commission for approval of an alternative form of regulation providing for regulation of such
9 carrier's retail operations comparable to the regulation applied to competitive local exchange
10 carriers, subject to paragraph III, due to its status as carrier of last resort.

11 III. The commission shall approve the alternative regulation plan if it finds that:

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13 ~~retail customers in each of the exchanges served by such small incumbent local exchange carrier;]~~
14 ***The small incumbent local exchange carrier has 25 percent fewer access lines in service***
15 ***than it did on December 31, 2004;***

16 (b) The plan provides for maximum ***stand-alone*** basic local service rates at levels that
17 do not exceed the comparable rates charged by the largest incumbent local exchange carrier
18 operating in the state and that do not increase by more than [10] 5 percent in each of the 4 years
19 after a plan is approved with the exception that the plan may provide for additional rate
20 adjustments, with public utilities commission review and approval, to reflect changes in federal,
21 state, or local government taxes, mandates, rules, regulations, or statutes;

22 (c) ~~[The plan promotes the offering of innovative telecommunications services in the~~
23 ~~state;~~

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

25 [(e)] (d) The plan preserves universal access to affordable ***stand-alone*** basic telephone
26 service; and

27 [(f)] (e) The plan provides that, if the small incumbent local exchange carrier operating
28 under the plan fails to meet any of the conditions set out in this section, the public utilities
29 commission may require the small incumbent local exchange carrier to propose modifications to the
30 alternative regulation plan or return to rate of return regulation.

1 IV. The alternative regulation plan may allow the small incumbent local exchange carrier to
2 offer bundled services that include combinations of telecommunications, data, video, and other
3 services.

4 V. Following approval of the alternative regulation plan, the small incumbent local exchange
5 carrier shall no longer be subject to rate of return regulation or be required to file affiliate contracts
6 or seek prior commission approval of financings or corporate organizational changes, including,
7 without limitation, mergers, acquisitions, corporate restructurings, issuance or transfer of securities,
8 or the sale, lease, or other transfer of assets or control.

9 VI. *Notwithstanding any other provision of law, competitive entry in the service*
10 *territory of a small incumbent local exchange carrier which has petitioned for approval of*
11 *an alternative regulation plan, is consistent with the public good for the specific purpose*
12 *of RSA 374:22-g and approval of such competitive entry shall not require a hearing as*
13 *required under RSA 374:26.*

14 2 Effective Date. This act shall take effect upon its passage.

CHAPTER 175
SB 22 - FINAL VERSION

03/30/11 1197s

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11-0998
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1 175:1 Alternative Regulation of Small Incumbent Local Exchange Carriers. Amend RSA 374:3-b
2 to read as follows:

3 374:3-b Alternative Regulation of Small Incumbent Local Exchange Carriers.

4 I. In this section, "small incumbent local exchange carrier" means an incumbent local
5 exchange carrier serving fewer than 25,000 access lines.

6 II. *Solely at its option*, a small incumbent local exchange carrier subject to rate of return
7 regulation, *and only such small incumbent local exchange carrier*, may petition the public
8 utilities commission for approval of an alternative form of regulation providing for regulation of such
9 carrier's retail operations comparable to the regulation applied to competitive local exchange
10 carriers, subject to paragraph III, due to its status as carrier of last resort.

11 III. The commission shall approve the alternative regulation plan if it finds that:

12 (a) [~~Competitive wireline, wireless, or broadband service is available to a majority of the~~
13 ~~retail customers in each of the exchanges served by such small incumbent local exchange carrier;~~]
14 *The small incumbent local exchange carrier has 25 percent fewer access lines in service*
15 *than it did on December 31, 2004;*

16 (b) The plan provides for maximum *stand-alone* basic local service rates at levels that
17 do not exceed the comparable rates charged by the largest incumbent local exchange carrier
18 operating in the state and that do not increase by more than [~~10~~] 5 percent in each of the 4 years
19 after a plan is approved with the exception that the plan may provide for additional rate
20 adjustments, with public utilities commission review and approval, to reflect changes in federal,
21 state, or local government taxes, mandates, rules, regulations, or statutes;

22 (c) [~~The plan promotes the offering of innovative telecommunications services in the~~
23 ~~state;~~

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

25 (e) The plan preserves universal access to affordable *stand-alone* basic telephone
26 service; and

27 (f) The plan provides that, if the small incumbent local exchange carrier operating
28 under the plan fails to meet any of the conditions set out in this section, the public utilities

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- Page 2 -

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2 alternative regulation plan or return to rate of return regulation.

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4 offer bundled services that include combinations of telecommunications, data, video, and other
5 services.

6 V. Following approval of the alternative regulation plan, the small incumbent local exchange
7 carrier shall no longer be subject to rate of return regulation or be required to file affiliate contracts
8 or seek prior commission approval of financings or corporate organizational changes, including,
9 without limitation, mergers, acquisitions, corporate restructurings, issuance or transfer of securities,
10 or the sale, lease, or other transfer of assets or control.

11 *VI. Notwithstanding any other provision of law, competitive entry in the service*
12 *territory of a small incumbent local exchange carrier which has petitioned for approval of*
13 *an alternative regulation plan, is consistent with the public good for the specific purpose*
14 *of RSA 374:22-g and approval of such competitive entry shall not require a hearing as*
15 *required under RSA 374:26.*

16 175:2 Effective Date. This act shall take effect upon its passage.

17 Approved: June 14, 2011

18 Effective Date: June 14, 2011

Amendments

Amendment to SB 22

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 Alternative Regulation of Small Incumbent Local Exchange Carriers. Amend RSA 374:3-b, II
4 to read as follows:

5 II. *Solely at its option*, a small incumbent local exchange carrier subject to rate of return
6 regulation, *and only such small incumbent local exchange carrier*, may petition the public
7 utilities commission for approval of an alternative form of regulation providing for regulation of such
8 carrier's retail operations comparable to the regulation applied to competitive local exchange
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10 2 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(a) is
11 repealed and reenacted to read as follows:

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13 retail customer premises in such small incumbent local exchange carrier's service area:

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15 exchange carrier;

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17 carrier provided separately from its wireline voice service;

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19 available coverage map of any wireless carrier; or

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4 repealed and reenacted to read as follows:

5 III. The commission shall approve the alternative regulation plan if it finds that:

6 (a) The plan provides that all products and services provided by the incumbent local
7 exchange carrier shall be offered and priced on a uniform basis wherever facilities are available.
8 Incumbent local exchange carriers may, however, offer promotions, for periods not to exceed 90 days,
9 to a select group of customers. Identical promotions shall not be offered to the same select group of
10 customers more than twice in any 12-month period.

11 (b) The plan includes an implementation plan to allow customers of the incumbent local
12 exchange carrier to receive broadband services, equivalent to the broadband service offered by the
13 incumbent in its service territory at the time alternative regulation is approved, as soon as
14 reasonably possible.

15 (c) The plan provides for maximum basic local service rates at levels that do not exceed
16 the comparable rates charged by the largest incumbent local exchange carrier operating in the state
17 and that do not increase by more than 10 percent in each of the 4 years after a plan is approved with
18 the exception that the plan may provide for additional rate adjustment, with public utilities
19 commission review and approval, to reflect changes in federal, state, or local government taxes,
20 mandates, rules, regulations, or statutes.

21 (d) The plan promotes the offering of innovative telecommunications services in the
22 state.

23 (e) The plan meets intercarrier service obligations under other applicable laws.

24 (f) The plan preserves universal access to affordable basic telephone service.

25 (g) The plan provides that, if the small incumbent local exchange carrier operating
26 under the plan fails to meet any of the conditions set out in this section, the public utilities
27 commission may require the small local exchange carrier to propose modifications to the alternative
28 regulation plan or return to rate of return regulation.

29 2 New Paragraph; Alternative Regulation of Small Incumbent Local Exchange Carriers. Amend
30 RSA 374:3-b by inserting after paragraph V the following new paragraph:

31 VI. Notwithstanding any other provision of law, competitive entry in the service territory of
32 an incumbent local exchange carrier which has petitioned the commission for alternative regulation,

Amendment to SB 22

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- 1 is in the public interest and approval of such competitive entry shall not require a hearing.
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Committee Minutes

AMENDED
SENATE CALENDAR NOTICE
ENERGY AND NATURAL RESOURCES

Printed: 01/27/2011 at 11:10 am

Senator Bob Odell Chairman
Senator John Gallus V Chairman
Senator Jeb Bradley
Senator Gary Lambert
Senator Amanda Merrill

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/>
	Bill Status

Date: January 27, 2011

HEARINGS

Thursday

2/3/2011

ENERGY AND NATURAL RESOURCES

LOB 102

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: Please note SB 32 was previously recessed on 1/27/2011. The hearing time for SB 22 has been switched to 9:30 a.m. from its previously scheduled time of 9:00 a.m. and the hearing time for SB 48 has been switched to 9:45 a.m. from its previously scheduled time of 9:15 a.m.

9:00 AM	SB32	relative to water withdrawals for snow making.
9:15 AM	SB87	relative to the closure of certain underground storage tank systems.
✓9:30 AM	SB22	relative to alternative regulation of small incumbent local exchange carriers.
9:45 AM	SB48	relative to filing of rates for certain telephone services.

Sponsors:

SB32

Sen. John Gallus

SB87

Sen. Jeb Bradley

Sen. John Gallus

Rep. Karen Umberger

SB22

Sen. Bob Odell

SB48

Sen. Bob Odell

Sen. John Barnes, Jr.

Sen. Gary Lambert

Rep. Laurie Pettengill

Sen. David Boutin

Sen. Bob Odell

Sen. Sharon Carson

Rep. Gene Chandler

Sen. Gary Lambert

Sen. Jim Luther

START: 9:55am

END: 10:49am

Richard Parsons 271-3076

Sen. Bob Odell

Chairman

Energy and Natural Resources Committee

Hearing Report

TO: Members of the Senate

FROM: Richard Parsons, Legislative Aide

RE: Hearing report on SB 22 – relative to alternative regulation of small incumbent local exchange carriers.

HEARING DATE: 02/03/2011

MEMBERS OF THE COMMITTEE PRESENT: Senators Odell, Gallus, Bradley, Lambert

MEMBERS OF THE COMMITTEE ABSENT: Senator Merrill

Sponsor(s): Sen. Odell, Dist 8

What the bill does: This bill modifies the requirements for use of an alternative regulation plan.

Who supports the bill: Tom Murray, TDS; Kate Bailey, NH PUC

Who opposes the bill: Bill Durand, NECTA; Dan Feltes, NH Legal Assistance and Mr. Dan Bailey; Bob Denz, AARP

Summary of testimony received:

Senator Bob Odell, District 8 – Prime Sponsor

- Hearing was called to order at 9:55 am.
- In 5 terms on the Committee there has been a rapid change in technology and communications.
 - The regulatory patterns that have been established and used in the past may no longer be adept and appropriate for modern times.

Kate Bailey and Anne Ross, NH PUC

- The Commission has had 3 cases under the current law for alternative regulation for small telephone companies and it has been difficult.
 - Therefore, the Commission welcomes a chance to make this law better.

- The law now says that the Commission has to find out that a competitive alternative is available to all customers in each exchange.
 - It doesn't define what competitive is and that has led to a lot of debate.
 - It is hard for the incumbent telephone company to get the facts about their competitors because they don't want the incumbent to know.
 - It makes fact finding very difficult.
- The whole idea of this is that competition exists in these service territories.
 - If we are going to price deregulate the incumbents we need to make sure that it is easy for wire line competitors who provide the closest substitute to local telephone service to enter those territories.
 - Right now, the law requires a hearing and the process can take a long time.
 - The Supreme Court has asked the Commission whether the law on competitive entry into these territories is a barrier to entry and the Commission is working on that.
 - If we are going to change this law to make it easier to have alternative regulation we should also make it easier for competitors to compete in those areas.
- What the plan should include:
 - Found in looking at competition, even in the cases where the majority of customers have choices, there are always a percentage that don't have choices.
- If we are going to price deregulate the incumbent providers I encourage you to think about requiring them to offer all of their products and choices they offer to customers with competitive choices to the customers that don't have competitive choices.
 - That way all the customers in the service territory benefit from competition and they don't need to be price regulated anymore.
 - It is really important for every customer to have broadband access available as it is the way of the future.
 - The PUC does not have jurisdiction of broadband, but maybe require that an incumbent who wants alternative regulation demonstrate that they are going to provide broadband to all of their customers eventually.
- Question from Senator Odell: From a definition standpoint, we are talking about small telephone companies with less than 25,000

customers. In the marketplace, there would be people with no alternative. At minimum they can get a landline and the services, on the other side there would be an area with robust competition with bundles offered and active competition, and then there would be a third area where incumbent would offer bundles but there is no one competing for the competition.

- Right, that is correct. Attachment is not language suggestions, but points and ideas to consider
- Questions from Senator Odell: You think something needs to be done to clarify this so the PUC can better fulfill your responsibilities in this area?
 - Yes, a clarity in intent would be helpful.

Tom Murray, TDS Telecom

- Map showing broadband and other availability.
- Market has changed in the last 15 years since the Telecom Act of 1996 and the amount of competition is dramatic.
- Another handout shows what TDS is really faced with in competition, pie chart attached.
- NH is second in the nation with customers that have used VOIP services, 49%.
- Losing a lot of customers, and it is important to talk about the telephone company model:
 - In the higher density areas it costs less to provide a service so we make a little more money on those customers, but it allows us to provide better service in the rural areas.
- Current statute talks about looking at competition at an exchange-by-exchange level.
- The proposed language talks about looking at it at a company-wide level.
 - Another interesting dynamic: 26% of the nation has completely gone cellular.
 - 59% of 25-29 year olds are completely wireless.
 - That is the trend that we are being faced with today.
- We are asking for more flexibility to be able to bring products and services to the market faster and can compete.
 - Not going to raise rates especially when you are losing customers.
- Voice services are becoming applications on a broadband service.
 - We have 1950's monopolistic system
 - Now need flexibility to bring products to the market faster

- In telephone company industry you create an advertising campaign and apply to get it approved by the PUC.
 - It can take 3 to 6 months.
 - The PUC almost usually approves the bundles, but it becomes public records and our competitors can see what we are planning to do.
- Current statute brings frustration.
 - When this was passed in 2007, we were optimistic and we applied for alternative regulation.
 - Some of our companies got it quickly, but places like Merrimack turned into a battle that we didn't have much competition.
 - Estimate was over \$500,000 in legal costs.
 - Even when alternative regulation is granted, competitors ask for an appeal and it is not practical.
- Question from Senator Odell: How many lines do you have aggregate in New Hampshire?
 - A little over 25,000.
- Question from Senator Odell: How do you get away with being a big conglomerate out in Wisconsin and have all these little telephone companies and not fall under the same rules as Fairpoint?
 - We operate each company as an independent company for reasons such as federal support mechanisms.
- Question from Senator Odell: So by your corporate structure you are in a way taking advantage of things put in place to help smaller companies?
 - Yeah, we are a holding company, and a lot of companies do this.
- The clarifying language "solely at its option" means that you don't automatically have it but you applied for it.
- Looking at the existing language being stricken it said looking at the exchanges; the company has to prove that there was over 51% of competition.
 - This doesn't work with our business model because we look at these as stand-alone companies and we need to be able to compete across all the companies and provide universal services for the rural areas.
 - The first change is taking it from the exchange level to the company level.
- "One or..." shows that you offer a stand-alone broadband product over which customers can get other telephone services like Vontage.
- (c) talks about the wireless coverage maps.

- Had to spend thousands of dollars drive testing coverage maps and the conclusions of were no different than what we already knew.
- Question from Senator Odell: A,B,C can qualify for alternative regulation?
 - Yes, we would make our case on one of them to show they have competition.
- Next paragraph is the rate cap protection.
 - Can't raise the rates beyond a cap.
- (c) was stricken, because the discussion of what is innovative and what is not is debatable.
- If you have to commit to 100% broadband for something two or three years out that would be difficult.
- Concerning competitive entry – this should be a vehicle to allow more companies into the market.
 - Today, most companies offering voice have been approved.
 - Believe entry already exists and the added language isn't necessary.

Bill Durand, NH Cable and Telecommunications Association

- In support with request for one small change that Kate Bailey mentioned.
- Very expensive three stage process to get into the smaller market.
 - Competition takes the place of the need for regulation
 - Need to find a way to make it less expensive and less time consuming.
 - Customers want the bundle.
- Question from Senator Bradley: Prior witness indicated for threshold matter that 25% migration equals competition?
 - They are correct in a lot of regards, but it isn't necessarily rural but generational.
 - Consumers that are being deprived of competition.
 - Let the PUC decide what is needed and determine what needs to be deregulated.

Bob Denz, NH AARP

- AARP gets concerned when the elderly and more vulnerable people may lose protection from rising utility costs.
- For Americans living on retirement funds can be over 20% of their budget and the last thing in their budget they want to get rid of is the telephone.
- Asks the committee to consider the impact on the lower income/.

- Sen. Bradley – Has AARP seen rate increases in other states?
 - Don't know but AARP is concerned.

Dan Feltes, NH Legal Assistance and representing Dan Bailey

- Concerns – attachment shows the original and three possible amendments for the committee to consider.
 - NH Legal Assistance represents Mr. Bailey
 - Agree that there is increased competition
 - An extra \$30 a month adds up for lower income and people on basic services.
- SB 22 would likely be taken up by the PUC and that it would deregulated, and the elimination of that requirement to look at each exchange makes it much easier to be approved.
 - A note on the loss of access lines- In the 90's people would get two lines into a house.
 - The bundles made it so people would drop the additional line.
- 3 options that are proposed
 - A-It would change additional RSA – the price cap at Fairpoint's prices that allows the company to get all the conditions of additional services and the basic phone service would be exempt from alternative regulation.
 - B-Inserts the languages that the plan would require stand alone basic phone service and make sure the rates don't increase more than 5% in any given year.
 - Example, a company could hold rates down for 5 years and then decide to jack them up after that.
 - C-Deals with the rate cap and that they provide the basic phone service
 - The rate cap here would not relate to Fairpoint but it would cap the rate increase on the life of the plan at 50% and that would not increase by more than 5% in any given year.
 - Should protect the basic phone service customers at a minimum if they want to pursue this.
- Mr. Bailey
 - Basic concerns is that his income has decreased over the past few years and this is one area where his own protections rely on that phone service and the importance to his well-being.
 - Not opposed to the other types of alternatives and is aware of the changing technology and what it means for a land line company.

- Convinced that the landline service needs to be preserved for those that need it.

Hearing recessed at 10:49 am.

Funding: *Not applicable.*

Future Action: Action Pending.

RMP

[file: SB 22 report]

Date: 02/04/2011

AMENDED
SENATE CALENDAR NOTICE
ENERGY AND NATURAL RESOURCES

Printed: 03/03/2011 at 12:51 pm

Senator Bob Odell Chairman
Senator John Gallus V Chairman
Senator Jeb Bradley
Senator Gary Lambert
Senator Amanda Merrill

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/>
	Bill Status

Date: March 3, 2011

HEARINGS

Thursday

3/17/2011

ENERGY AND NATURAL RESOURCES

LOB 102

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: SB 22 was previously recessed on 02/03/2011.

✓ 9:00 AM SB22 relative to alternative regulation of small incumbent local exchange carriers.
9:15 AM SB118 modifying the definition of renewable generation facility.

Sponsors:

SB22

Sen. Bob Odell

SB118

Sen. John Gallus

Rep. Laurence Rappaport

START: 9:01 AM

END: 10:27

Richard Parsons 271-3076

Sen. Bob Odell

Chairman

Energy and Natural Resources Committee

Hearing Report

TO: Members of the Senate

FROM: Richard Parsons, Legislative Aide

RE: Hearing report on SB 22 – relative to alternative regulation of small incumbent local exchange carriers.

HEARING DATE: 3/17/2011

MEMBERS OF THE COMMITTEE PRESENT: Senators Odell, Gallus, Bradley, Lambert, Merrill

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Sen. Odell, Dist 8

What the bill does: This bill modifies the requirements for use of an alternative regulation plan.

Who supports the bill: Tom Murray, TDS; Kate Bailey, NH PUC; Bill Stafford, GST

Who opposes the bill: Dan Feltes, NH Legal Assistance; Michael Krak

Neutral position: Bill Durand, NECTA; Maura Weston, NECTA

Summary of testimony received:

Senator Bob Odell, District 8- prime sponsor

- Hearing reopened at 9:01 am

Dan Feltes, NH Legal Assistance

- SB 22 amends an existing alternative regulation statute for a monopoly telephone companies.
- Does not change 374:3-b V
 - Deals with the alternative regulation provisions including that the company would no longer be subject to rate of return regulation following approval of an alternative regulation plan.
 - Means that the company would no longer have to seek permission from the PUC before it raises its rates and the PUC would not scrutinize the appropriateness of those rate raises.

- Proposed three options to deal with the concern that the PUC would not have the ability to scrutinize basic local phone rates.
 - Concern is not necessary the bundle packages.
- Three options presented at last meeting:
 - Option B is the most reasonable proposal to review after speaking with all the other stakeholders.
 - Question from Senator Odell: Concern is about pricing and the ability to have phone separate from a bundle?
 - Correct.
- Appropriate to take the existing provisions that allow the rates to increase rather quickly and amend it.
 - Version B would make it clear that the plan allows for stand-alone basic service, which allows customers the choice to continue to have basic phone service.
 - Also, provides the rate protection of an increase at no more than 5% a year.
 - It is reasonable to cap it at 5%.
 - “In anyone year” is appropriate because right now after the 4th year a company can raise all the way to Fairpoint rates and have big rate shock.
- Question from Senator Odell: “Stand-alone basic service” is a commonly understood term?
 - Believe it is commonly understood. There is an excerpt from a PUC decision that highlights the use of that phrase. (Submission A)
 - Simply want the choice for customers to be able to have stand-alone.
- Question from Senator Odell: Today, this issue hasn’t come up, right?
 - Correct.
- Question from Senator Odell: Is there a problem with the 10% that exists today?
 - 5% we think is reasonable. Our clients can't really afford any rate increases.
- Question from Senator Odell: You think it would be difficult at the PUC for a phone company to get a 10% increase? And, how would the marketplace sustain that increase?
 - You may hear that there is no intention by the industry to raise rates.
 - In experience, it is rare that a company would be approved a 10% increase let alone every year so we believe this is reasonable.
 - The company has unilateral authority to raise their rates without needing to get approval.
 - Need to provide some basic rate protections under this type of regulation.
- Question from Senator Merrill: For clarity purposes, the amendment presented is identical to the bill as introduced except for what you have said today?

- Correct, only concerns with basic phone service and to offer the choice and to moderate that rate exposure to those that already cannot afford it.
- Question from Senator Merrill: Do you know what the range is of what your clients are currently paying?
 - \$8, \$9, \$10 range a month pre-tax, pre-call waiting, no long distance.

Maura Weston and Bill Durand, NE Cable and Telecommunications Association.

- Encouraging adopting an amendment to reduce barriers for entry by competitive providers.
 - Have suggested language (Attachment #2).
- Have one approach in the amendment that the Committee should consider.
 - There are two stages to this process:
 - One is to get certified.
 - In the past, this has involved a long, tedious process, as well as a lot of money.
 - Second phase is getting an interconnecting agreement so the company can get the deed and provide service.
- Asking to use the language "has petitioned" in section VI.
- Question from Senator Odell: You would be an advocate of this kicking in when the petition is filed. What happens if the don't get alternative regulation?
 - Then it is back to square one.
- Question from Senator Odell: So nothing happens? If this language was to pass the cable company wouldn't do anything until approved?
 - Can't do anything until you get an interconnection agreement which goes to arbitration at the PUC.
- Question from Senator Odell: So, why would you care if it says petition or received?
 - Delay of time.
 - Experience is that we go for an application and the certification process involves a full hearing which takes time and money.
 - Not unusual to spend \$100,000-\$200,000
 - Don't see why we couldn't sit down and work out an interconnection agreement. (23)
- Question from Senator Odell: You have no interest in the stand-alone service?
 - The alternative regulation is beyond our expertise.

Tom Murray, TDS

- In the telecom marketplace, the majority of the telephone market is wireless customers, and a lot of phone customers and a good amount of those are cable phone customers.
 - Cable companies are probably the largest phone companies out there but live under a very reduced regulatory strategy.

- Reason put forth the bill is because one location was denied and it took 3-4 years.
- The current statute is very difficult as it relates to competition.
- The cable discussion has come out of left field.
- In TDS markets, cable can do what they want.
- However, it affects several small companies.
- Cable companies can file to sell voice services and at the same time can still be getting the interconnection agreements.
 - Those things can happen in parallel.
 - That has nothing to do with alternative regulation.
 - If a cable company is coming into the market one may want to apply for alternative regulation, but there is no guarantee you are going to get that.
- Our language says that once the phone company gets alternative regulation they waive their right to a hearing at that point.
- The important point is the only thing left in NH for the cable companies to fight to get into is the Dunbarton Telephone Company, Granite State Telephone Company, Dixville Notch Telephone Company, and Bretton Woods Telephone Company.
 - The smaller phone companies.
- Talking about NH Legal Aides proposal:
 - Context is because it is a competitive market rates are being checked.
 - Example, if you look at the current language, can't raise the rate more than 10% for the first four years getting to the Fairpoint cap.
 - Know that if we raise rates we will loose customers.
 - As a regulated company, have to file a 100-page annual financial documents that basically is a PNL statement on how that says how we are doing.
 - If you look at our NH companies we are losing money in the phone business.
 - We could go in tomorrow and get rate increases, but we aren't because we would lose customers.
- In Vermont, have had alternative regulation for 4 years and haven't raised rates. Same with NH.
 - The fear that there is a motive to raise rates isn't reality.
- When you look at (e) in the current statute when that was written, the only variance in this issue of stand-alone was semantics because the intent was to protect that services.
 - If the Committee wants to look at stand-alone language that is no problem, it would just further clarify.
- Looking at rules at federal level, get support that mandates we have stand-alone service.
- 5% to 10% we think the current rate works fine, and if it was to be dropped it wouldn't be the end of the world, but it would be tough to have that restriction forever.

- When you talk about price sensitivity we are dealing with an array of cheap voice services.
- PUC proposals: The PUC is saying let's do away with Section III, the competitive measure and getting all the companies to offer at the same rate across the board and 100% broadband services.
- When you look at TDS, this clause would force us to limit dish net promotions.
 - Example, police department calls and says, "Comcast is offering it for \$100. Can you beat that?"
 - The proposal would mean we could only offer that twice in a year, and eventually Comcast would win that customer.
 - It is much more onerous in the competitive market.
- TDS is close to 97% broadband and it could take \$2 million more to get those last 3 or 4%.
 - Those are the areas that are very difficult to get to.
 - When doing the math it is a bad investment.
- If those clauses were in the bill the rest of the bill would not be worth it.
- Question from Senator Odell: Given the competitive market place the 10 to 5 percent isn't realistic?
 - If that were to happen we would like to see it sunset at 4 years still.
- Question from Senator Odell: What about the stand-alone language?
 - That is fine. It just further clarifies the intent.
- Question from Senator Odell: Why is broadband tied to this bill?
 - When we look at this bill, it was focused on less regulation on traditionally regulated services. PUC is willing to give less regulation for more broadband service regulation.
 - Bad business equation for TDS.
 - It does raise jurisdictional questions.
 - Puts things that aren't in NH statute into law.
- Question from Senator Odell: Directed toward broadband, average pricing versus standard pricing for everyone in your service area? Saying we as a Legislature should not get involved because if we put it in statute you would have to come back here in terms of offering different prices?
 - Yeah, and the PUC has three amendments:
 - 1. Says we have to offer our services at the same rate across our telephone footprint.
 - That is the promotional pricing part. It has flexibility, but also raises a lot of questions.
 - The commission wants to make sure every customer gets the same price, but the market takes care of that.
 - If we want to be fair we would put that same limitation on a cellular company and a cable company.
 - 2. Broadband commitment.
 - Most of the smaller companies have 100% or close, and Fairpoint is struggling to get up there at around 90%.

- 3. Last page, difference is "obtained approval" as opposed to "has petitioned".
 - Referring to amendment #914s.
- Question from Senator Odell: How many lines in NH?
 - 30,000 lines.
 - Comment from Senator Odell: Which would qualify them as a large company if it wasn't for the subdivision.
 - 5 issues, some of which are becoming de minimis:
 - Pricing of products equally.
 - Broadband commitment.
 - Timing of the cable companies.
 - Terminology of basic service.
 - 5% or 10% of pricing.

Bill Stafford, Granite State Telephone.

- Third generation family owned company.
- Support the bill and TDS amendment language.
- SB 22 gives the flexibility to get into alternative regulation easier.
- The original language is very onerous on gaining entry and it would be difficult for our company to ever gain entry.
- Already at 100% broadband. Our rates are already at the cap.
- In terms of certification, there is a docket that determines the rules of the road.
- Support the language of upon approval.
- Question from Senator Odell: As a small company, what are your revenue streams?
 - Have three:
 - 50% is from interstate jurisdiction.
 - 50% intrastate side.
 - 33% basic services.
 - 17% from access charges.
- Question from Senator Odell: What is the future of your company?
 - It is a tough business and everywhere you look there is competition.
 - There is the federal regulatory situation and then the competitive side.
 - There are so many variances of entry into the market now it is unbelievable.
 - Very progressive company. Going 100% fiber to the home over the next few years.
- Question from Senator Gallus: Cantell that the technology has changed substantially for telephone companies and most of them has changed in the last few years. True?
 - Technology is rapidly growing.
 - Not fighting about the beginning or the end but the middle.

Michael Krak, Resident of Whitefield

- Do not believe that regulation is a good thing on our capitalist system.

Kate Bailey and Anne Ross, PUC

- Bringing in amendment by the PUC: #914s

- This is a policy decision about how the PUC should regulate an incumbent provider.
 - Trying to find a balance between price deregulation and everyone being serviced.
- Broadband is where we are heading in the future.
 - Suggested language about broadband because if the company is deregulated and they do not have to have broadband anymore than there could be customers that are not served.
- On pricing of the product:
 - First thing that should be done is to take out the test that the PUC has to go through to see if a company can have alternative regulation.
 - The small companies meet the criteria that is being suggested already.
 - The wireless maps are not as accurate as they are said to be.
 - There is no reason to ask the commission to go through the process when they already meet those.
 - "All products and services provided"...the intent was they could offer a promotion for 90 days. The pricing isn't limited to 90 days but the promotion is limited to 90 days.
 - Limitation on same pricing of products to where facilities are available.
 - This provision is to make sure that the customers that do not have a really good choice have the same benefit of those that do.
- The next provision is the broadband provision. All that is being asked is that they tell the PUC what their plan is to reach 100%.
 - It would cost \$2 million dollars but they got \$2 million from the federal government.
- The next provision includes the language of legal assistance to make it clear that stand-alone service is being provided.
 - PUC doesn't have a position on 5% or 10%.
- The debate about when a cable company can start competing.
 - Right now, the law requires there be a good alternative before they can get approval.
 - If you approve the TDS language, the competition would stay out until they get approved and then it could be another 9 months until they reach an interconnection agreement.
 - Approval is pretty much guaranteed so it would slow the process.
- Odell: Broadband, in today's environment should we even be involved in that? And, the PUC doesn't regulate broadband, why are we getting involved?
 - It is a policy matter for Legislators to decide and it is an important thing to think about because everyone is going to need broadband eventually.
 - There are pockets of the state that don't have alternatives.

- It is true that the PUC does not have jurisdiction over the rates, but Fairpoint also agreed to expand broadband in the expansion into Verizon's network.
- Question from Senator Odell: The police station situation?
 - A promotional offering would be a legitimate tool. The promotion would be limited.
- Question from Senator Odell: Help with the idea of us limiting them?
 - That is a policy choice. You have to balance the interests of a competitive market with the fact that not everyone has a competitive market.

Hearing closed at 10:27 am

Funding: *Not applicable*

Future Action: Pending

RMP

{file: SB 0022 report}

Date: 3/18/11

Speakers

Testimony



State of New Hampshire
Telecom Franchise Areas

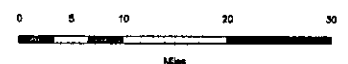
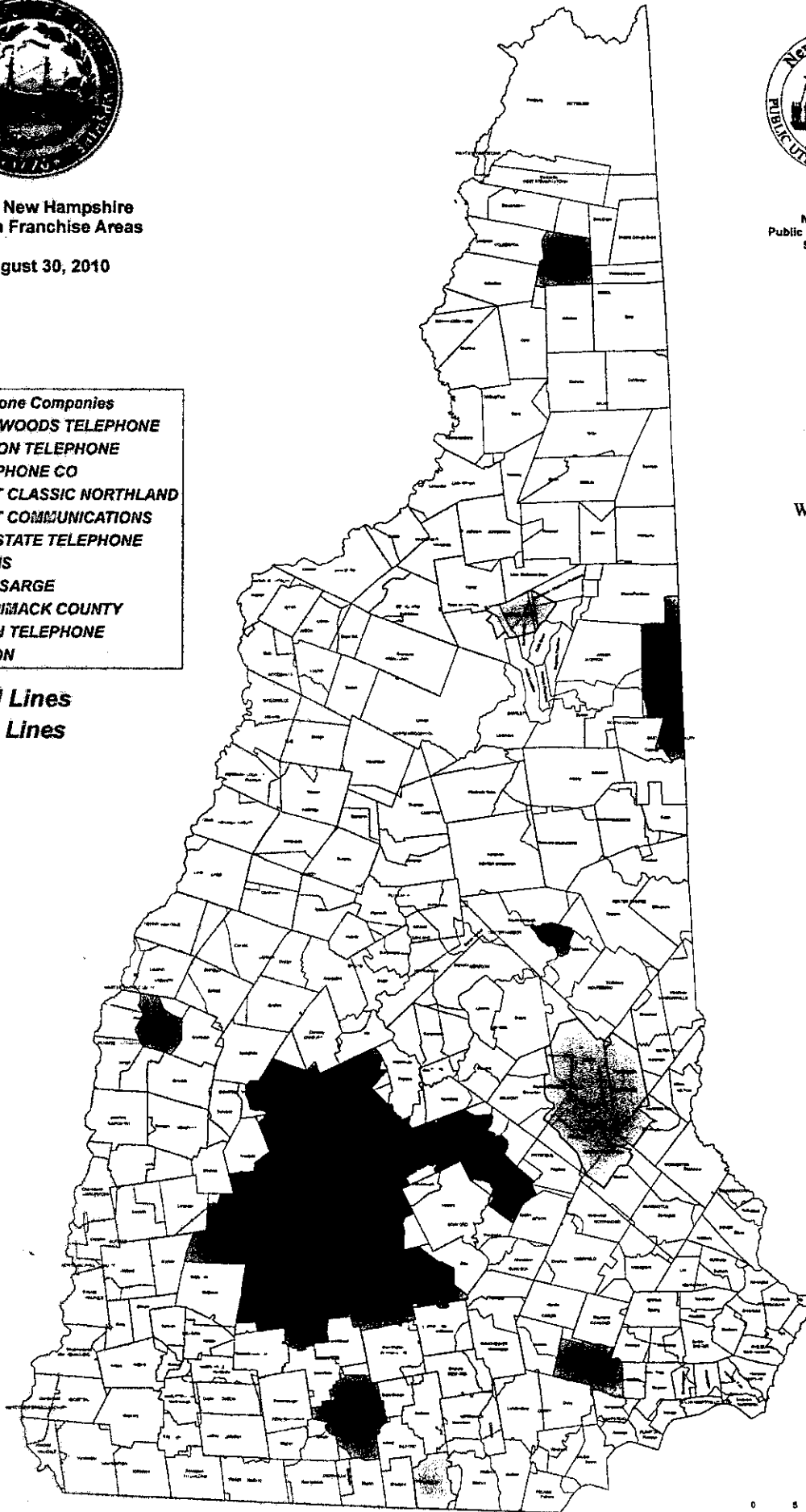
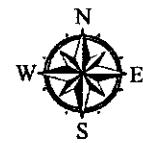
August 30, 2010



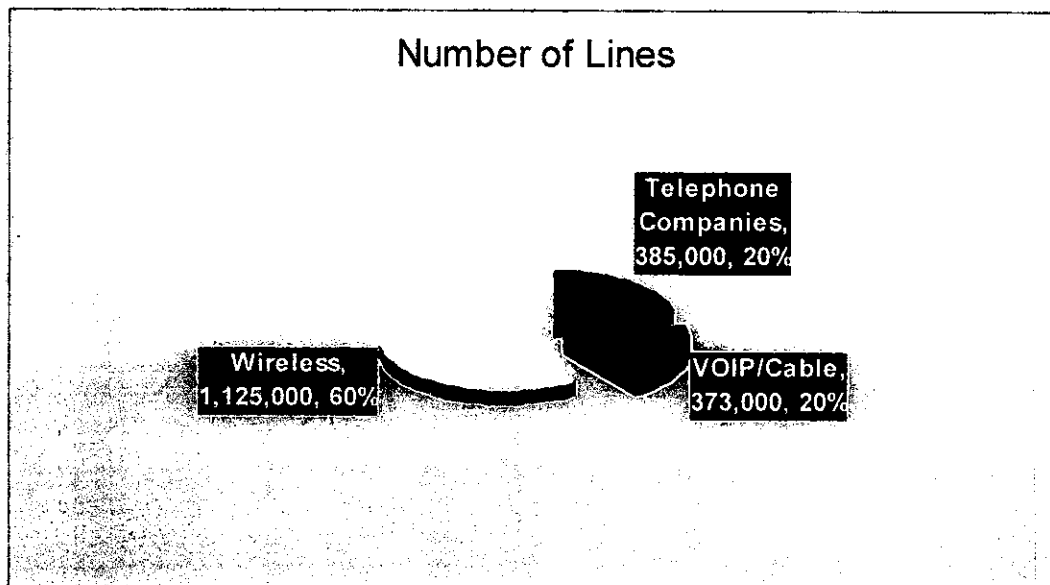
Prepared by:
New Hampshire
Public Utilities Commission
Safety Division

- Serving Telephone Companies**
- BRETTON WOODS TELEPHONE
 - DUNBARTON TELEPHONE
 - DIXVILLE PHONE CO
 - FAIRPOINT CLASSIC NORTHLAND
 - FAIRPOINT COMMUNICATIONS
 - GRANITE STATE TELEPHONE
 - TDS HOLLIS
 - TDS KEARSARGE
 - TDS MERRIMACK COUNTY
 - TDS UNION TELEPHONE
 - TDS WILTON

**Municipal Lines
Exchange Lines**



New Hampshire's Local Telephone Competition



Source: FCC Local Competition Report: Status as of December 31, 2009
http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0111/DOC-304054A1.pdf

Other interesting highlights from the report:

*49% of New Hampshire's landline telephone service is provided by a VOIP/Cable provider, the 2nd highest percentage in the Nation.

* Only 1 zip code in New Hampshire is served by only one provider, a large majority of the state's zip codes have 6 or more providers.

TITLE XXXIV PUBLIC UTILITIES

CHAPTER 374 GENERAL REGULATIONS

Supervisory Power of Department of Transportation

Section 374:3-b

374:3-b Alternative Regulation of Small Incumbent Local Exchange Carriers. –

I. In this section, "small incumbent local exchange carrier" means an incumbent local exchange carrier serving fewer than 25,000 access lines.

II. A small incumbent local exchange carrier subject to rate of return regulation may petition the public utilities commission for approval of an alternative form of regulation providing for regulation of such carrier's retail operations comparable to the regulation applied to competitive local exchange carriers, subject to paragraph III, due to its status as carrier of last resort.

III. The commission shall approve the alternative regulation plan if it finds that:

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

(b) The plan provides for maximum basic local service rates at levels that do not exceed the comparable rates charged by the largest incumbent local exchange carrier operating in the state and that do not increase by more than 10 percent in each of the 4 years after a plan is approved with the exception that the plan may provide for additional rate adjustments, with public utilities commission review and approval, to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes;

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

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

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

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

IV. The alternative regulation plan may allow the small incumbent local exchange carrier to offer bundled services that include combinations of telecommunications, data, video, and other services.

V. Following approval of the alternative regulation plan, the small incumbent local exchange carrier shall no longer be subject to rate of return regulation or be required to file affiliate contracts or seek prior commission approval of financings or corporate organizational changes, including, without limitation, mergers, acquisitions, corporate restructurings, issuance or transfer of securities, or the sale, lease, or other transfer of assets or control.

Source. 2005, 263:7. 2006, 154:1, eff. July 21, 2006.

SB 22 Small ILEC Price Deregulation

RSA 374:3-b has been difficult to implement and the Public Utilities Commission welcomes clarification.

The idea of price deregulation is premised on the fact that there is sufficient competition, so entry for wireline competitors should be easy.

In order to insure customers who do not have a competitive alternative are not disadvantaged, the plan should include a provision that small telephone company products and services be offered to all customers at the same price. This will expand the benefit of competition to all customers.

The plan should include a build out schedule to make sure everyone gets broadband.

Parsons, Richard

From: Dan Feltes [DFeltes@nhla.org]
Sent: Wednesday, March 16, 2011 5:30 PM
To: Parsons, Richard
Cc: Alan Linder
Subject: Senate Bill 22
Attachments: FairPoint excerpts.pdf

Dear Mr. Parsons:

Alan Linder and I wanted to thank you and Senator Odell again for meeting today.

We also wanted to follow-up on the phraseology used on basic phone service. Attached are excerpts from the Public Utilities Commission decision in the Fairpoint case referencing basic phone service. Page 70 uses the term "stand-alone basic service offering" and page 71 uses the term "stand-alone basic telephone offering." Our suggested draft amendments to Senate Bill 22 use the term "stand-alone basic local service." The word "local" in our draft may be redundant but could clarify that the phone service may be offered without long-distance service "bundled" into it. In short, we are fine with using any of the three phrases mentioned in this email.

We will have several copies of the attached at the hearing, and one copy of the full decision (which is quite lengthy) should anyone need to review it. See you tomorrow morning. Thank you again for your time.

Dan and Alan

Daniel Feltes
Staff Attorney
New Hampshire Legal Assistance
117 North State Street
Concord, New Hampshire 03301
P: 603.223.9750, ext. 2806
F: 603.223-9794

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**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DT 07-011

**VERIZON NEW ENGLAND, INC., BELL ATLANTIC COMMUNICATIONS, INC.,
NYNEX LONG DISTANCE CO., VERIZON SELECT SERVICES, INC. AND
FAIRPOINT COMMUNICATIONS, INC.**

Petition for Authority to Transfer Assets and Franchise

Order Approving Settlement Agreement with Conditions

ORDER NO. 24,823

February 25, 2008

APPEARANCES: Victor D. Del Vecchio, Esq. and McLane, Graf, Raulerson & Middleton, P.A. by Sarah P. Knowlton, Esq. for Verizon New England, Inc., Bell Atlantic Communications, Inc., NYNEX Long Distance Co. and Verizon Select Services, Inc.; Devine, Millimet & Branch, P.A. by Frederick J. Coolbroth, Esq., Patrick C. McHugh, Esq., Kevin M. Baum Esq., and Melinda S. Gehris, Esq. and Latham & Watkins LLP by Karen Brinkmann, Esq. for FairPoint Communications, Inc.; Scott Sawyer, Esq. for BayRing Communications, SegTEL, Inc. and Otel Telekom, Inc.; Smith & Duggan LLP by Alan D. Mandl, Esq. for New England Cable and Telecommunications Association and Comcast Phone of New Hampshire, LLC; Ted Price, Esq. for One Communications; Scott Rubin, Esq. for Communications Workers of America and International Brotherhood of Electrical Workers (IBEW) Locals 2320, 2326 and 2327 and IBEW System Council T-6; Gerald M. Eaton, Esq. for Public Service Company of New Hampshire; Gary M. Epler, Esq. for Unitil Energy Systems, Inc.; New Hampshire Legal Assistance by Alan M. Linder, Esq. and Daniel Feltes, Esq. for Irene Schmitt; Donahue, Tucker & Ciandella, PLLC by Robert D. Ciandella, Esq. for towns of Exeter, Hanover, Keene, Newmarket, Raymond, Salem and Seabrook; Suzanne M. Woodland, Esq. for City of Portsmouth; Office of Consumer Advocate by Meredith A. Hatfield, Esq. and Rorie E.P. Hollenberg, Esq. on behalf of residential ratepayers; and Lynn Fabrizio, Esq. of the Staff of the New Hampshire Public Utilities Commission

I. INTRODUCTION

On January 31, 2007, the Commission received a petition for authority to transfer the local exchange and long distance businesses in New Hampshire owned by subsidiaries of Verizon Communications, Inc. to entities controlled by FairPoint Communications, Inc. The petitioners are Verizon New England, Inc., Bell Atlantic Communications, Inc., NYNEX Long

VII. OTHER PUBLIC BENEFITS

In considering major utility transactions, our public interest determination is not wholly dependent on a positive decision on the question of financial, managerial and technical capacity. These capabilities are necessary but may not be sufficient. We must also undertake a broader assessment of the effects of the transaction. As we have already noted, we need not decide here whether to apply a "net benefits" or "no net harm" approach. Regardless, the inquiry is a holistic one that requires us, in these circumstances, to consider what FairPoint has committed to doing in New Hampshire and the effects of those commitments.

A. Retail Rates and Service

The signatories to the settlement agreement included provisions related to retail rates that they regard as adding significant public benefits to the transaction in a manner that is germane to the public interest determination we make here. The settlement agreement adopts a "mutual stay-out" – i.e., an agreement that FairPoint will not seek to increase rates for regulated services and the Commission will not reduce them for a period of five years. Additionally, FairPoint commits to maintaining a stand-alone basic service offering; to the same or comparable sales and service offerings that Verizon makes available; to the same or comparable payment agencies Verizon uses; to an appropriate bill format reviewed by Staff prior to cutover; and to the regulatory treatment of basic service irrespective of changes in technology. We find, as a result of this transaction, that the assurance of rate stability for retail customers over the next five years

and FairPoint's additional retail service commitments will provide benefits to ratepayers.¹⁴

B. Service Quality

The record in this proceeding recounts important issues with respect to the quality of service Verizon has provided utility customers in New Hampshire. As OCA points out, the currently applicable service quality standards came into effect as the result of the merger of Verizon predecessors Bell Atlantic and NYNEX in 1997. OCA also draws the Commission's attention to the ongoing investigation of Verizon's service quality, begun with the opening of Docket No. DT 04-019. The statement in OCA's brief -- that Verizon "demonstrates no intention of achieving PUC-established service quality standards before selling its landline assets to FairPoint," OCA Brief at 59 -- is a fair one.

A related issue is the unconscionable backlog of double poles for which Verizon is responsible. It is credibly estimated that 7,000 such poles are scattered around Verizon's service territory, a condition that not only has negative impacts on the quality of telephone service but also on services provided by electric utilities, cable companies and other users of utility poles, including municipalities. There are safety and aesthetic consequences, as well.

FairPoint's commitment to reduce this backlog to a manageable and reasonable level (500 poles) within two years is a laudable step forward for those who live and work in the

¹⁴ An additional service-related set of benefits, although not discussed at hearing, is contained in the October 15, 2007 memorandum of understanding entered into by FairPoint with intervenor Irene Schmitt. The terms of this agreement include (1) a commitment by FairPoint to work with New Hampshire Legal Assistance to develop processes and procedures calculated to increase participation of eligible consumers in the Lifeline and Link-up programs, (2) the institution, within nine months of cutover, of a "soft disconnect" process whereby, subject to any technical constraints, consumers disconnected for non-payment will still have access to dial tone for the limited purpose of calling 911 for emergencies and, for 90 days, contacting the FairPoint business office, (3) a commitment by FairPoint to provide at least 30 days' advance notice to Staff, OCA and New Hampshire Legal Assistance of FairPoint's intent to remove any pay phone that could be eligible for the public interest payphone program described in N.H. Code Admin. Rules Puc 406, and (4) the installation, funding and maintenance for at least three years of five public interest payphones at locations to be determined in consultation with Staff, OCA and New Hampshire Legal Assistance. There was also an agreement that FairPoint would maintain a stand-alone basic telephone offering for at least three years, superseded by FairPoint's agreement with Staff to do so indefinitely.

374:3-b Alternative Regulation of Small Incumbent Local Exchange Carriers.

Notwithstanding any other provision of law, competitive entry in the service territory of an incumbent local exchange carrier which has petitioned the commission for alternative regulation, shall be deemed in the public interest and approval of such competitive entry shall not require a hearing.

An Act Relative To Alternative Regulation Of Small Incumbent Local Exchange Carriers

1. Requirements. Amend RSA 374:3-b to read as follows:

374:3-b Alternative Regulation of Small Incumbent Local Exchange Carriers. –

I. In this section, "small incumbent local exchange carrier" means an incumbent local exchange carrier serving fewer than 25,000 access lines.

II. Solely at its option, a small incumbent local exchange carrier subject to rate of return regulation, and only such small incumbent local exchange carrier, may petition the public utilities commission for approval of an alternative form of regulation providing for regulation of such carrier's retail operations comparable to the regulation applied to competitive local exchange carriers, subject to paragraph III, due to its status as carrier of last resort.

III. The commission shall approve the alternative regulation plan if it finds that:

(a) ~~Competitive wireline, wireless, or broadband service is available to a majority of the retail customers in each of the exchanges served by such small incumbent local exchange carrier;~~ (1) One or any combination of the following services is available to a majority of the retail customer premises in such small incumbent local exchange carrier's service area:

(A) Wireline or broadband service from other than the small incumbent local exchange carrier;

(B) standalone broadband service from the small incumbent local exchange carrier provided separately from its wireline voice service;

(C) voice service under any service plan as demonstrated solely by the publicly available coverage map of any wireless carrier; or

(2) the small incumbent local exchange carrier has 25% fewer access lines in service than it did on December 31, 2004; and

(b) The plan provides for maximum basic local service rates at levels that do not exceed the comparable rates charged by the largest incumbent local exchange carrier operating in the state and that do not increase by more than 10 percent in each of the 4 years after a plan is approved with the exception that the plan may provide for additional rate adjustments, with public utilities commission review and approval, to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes;

~~(c) [The plan promotes the offering of innovative telecommunications services in the state;~~

~~—(d)](c) The plan meets intercarrier service obligations under other applicable laws;~~

~~[(e)](d) The plan preserves universal access to affordable basic telephone service; and~~

~~[(f)](e) The plan provides that, if the small incumbent local exchange carrier operating under the plan fails to meet any of the conditions set out in this section, the public utilities commission may require the small incumbent local exchange carrier to propose modifications to the alternative regulation~~

plan or return to rate of return regulation.

IV. The alternative regulation plan may allow the small incumbent local exchange carrier to offer bundled services that include combinations of telecommunications, data, video, and other services.

V. Following approval of the alternative regulation plan, the small incumbent local exchange carrier shall no longer be subject to rate of return regulation or be required to file affiliate contracts or seek prior commission approval of financings or corporate organizational changes, including, without limitation, mergers, acquisitions, corporate restructurings, issuance or transfer of securities, or the sale, lease, or other transfer of assets or control.

VI. Notwithstanding any other provision of law, competitive entry in the service territory of a small incumbent local exchange carrier which has obtained approval of an alternative regulation plan, shall be deemed consistent with the public good for the specific purpose of RSA 374:22-g and approval of such competitive entry shall not require a hearing.

2. Effective Date. This act shall take effect upon passage.

An Act Relative To Alternative Regulation Of Small Incumbent Local Exchange Carriers

1. Requirements. Amend RSA 374:3-b to read as follows:

374:3-b Alternative Regulation of Small Incumbent Local Exchange Carriers. –

I. In this section, "small incumbent local exchange carrier" means an incumbent local exchange carrier serving fewer than 25,000 access lines.

II. [REDACTED] small incumbent local exchange carrier subject to rate of return regulation [REDACTED] [REDACTED] may petition the public utilities commission for approval of an alternative form of regulation providing for regulation of such carrier's retail operations comparable to the regulation applied to competitive local exchange carriers, subject to paragraph III, due to its status as carrier of last resort.

III. The commission shall approve the alternative regulation plan if it finds that:

(a) ~~Competitive wireline, wireless, or broadband service is available to a majority of the retail customers in each of the exchanges served by such small incumbent local exchange carrier; (1)~~ any combination of the following services is available to a majority of the retail customer premises in such small incumbent local exchange carrier's service area:

(A) Wireline or broadband service from other than the small incumbent local exchange carrier;

(B) standalone broadband service from the small incumbent local exchange carrier provided separately from its wireline voice service;

(C) voice service under any service plan as demonstrated solely by the publicly available coverage map of any wireless carrier; or

(2) the small incumbent local exchange carrier has 25% fewer access lines in service than it did on December 31, 2004; and

(b) The plan provides for maximum basic local service rates at levels that do not exceed the comparable rates charged by the largest incumbent local exchange carrier operating in the state and that do not increase by more than 10 percent in each of the 4 years after a plan is approved with the exception that the plan may provide for additional rate adjustments, with public utilities commission review and approval, to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes;

~~(c) [The plan promotes the offering of innovative telecommunications services in the state;~~

~~—(d)](c) The plan meets intercarrier service obligations under other applicable laws;~~

~~[(e)](d) The plan preserves universal access to affordable basic telephone service; and~~

~~[(f)](e) The plan provides that, if the small incumbent local exchange carrier operating under the plan fails to meet any of the conditions set out in this section, the public utilities commission may require the small incumbent local exchange carrier to propose modifications to the alternative regulation~~

plan or return to rate of return regulation.

IV. The alternative regulation plan may allow the small incumbent local exchange carrier to offer bundled services that include combinations of telecommunications, data, video, and other services.

V. Following approval of the alternative regulation plan, the small incumbent local exchange carrier shall no longer be subject to rate of return regulation or be required to file affiliate contracts or seek prior commission approval of financings or corporate organizational changes, including, without limitation, mergers, acquisitions, corporate restructurings, issuance or transfer of securities, or the sale, lease, or other transfer of assets or control.

2. Effective Date. This act shall take effect upon passage.

(Version A of Amendment to SB 22 -- Amended Language in Underline)

SB 22 – AS INTRODUCED

2011 SESSION

11-0998

06/09

SENATE BILL 22

AN ACT relative to alternative regulation of small incumbent local exchange carriers.

SPONSORS: Sen. Odell, Dist 8

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill modifies the requirements for use of an alternative regulation plan.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

11-0998

06/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to alternative regulation of small incumbent local exchange carriers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(a) is repealed and reenacted to read as follows:

(a)(1) Any combination of the following services is available to a majority of the retail customer premises in such small incumbent local exchange carrier's service area:

(A) Wireline or broadband service from other than the small incumbent local exchange carrier;

(B) Standalone broadband service from the small incumbent local exchange carrier provided separately from its wireline voice service;

(C) Voice service under any service plan as demonstrated solely by the publicly available coverage map of any wireless carrier; or

(2) The small incumbent local exchange carrier has 25 percent fewer access lines in service than it did on December 31, 2004;

2 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(b) is repealed and reenacted to read as follows:

Notwithstanding RSA 374:3-b, II and RSA 374:3-b, V, the plan shall provide for stand-alone basic local service and exempt basic local service rates from alternative regulation.

3 Repeal. RSA 374:3-b, III(c), relative to alternative regulation of small incumbent local exchange carriers, is repealed.

4 Effective Date. This act shall take effect upon its passage.

(Version B of Amendment to SB 22 -- Amended Language in Underline)

SB 22 – AS INTRODUCED

2011 SESSION

11-0998

06/09

SENATE BILL 22

AN ACT relative to alternative regulation of small incumbent local exchange carriers.

SPONSORS: Sen. Odell, Dist 8

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill modifies the requirements for use of an alternative regulation plan.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

11-0998

06/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to alternative regulation of small incumbent local exchange carriers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(a) is repealed and reenacted to read as follows:

(a)(1) Any combination of the following services is available to a majority of the retail customer premises in such small incumbent local exchange carrier's service area:

(A) Wireline or broadband service from other than the small incumbent local exchange carrier;

(B) Standalone broadband service from the small incumbent local exchange carrier provided separately from its wireline voice service;

(C) Voice service under any service plan as demonstrated solely by the publicly available coverage map of any wireless carrier; or

(2) The small incumbent local exchange carrier has 25 percent fewer access lines in service than it did on December 31, 2004;

2 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(b) is amended to read as follows:

The plan provides for *stand-alone basic local service and* maximum basic local service rates at levels that do not exceed the comparable rates charged by the largest incumbent local exchange carrier operating in the state and that do not increase by more than ~~10~~ 5 percent in ~~each of the 4 years~~ *any one year* after a plan is approved with the exception that the plan may provide for additional rate adjustments, with public utilities commission review and approval, to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes;

3 Repeal. RSA 374:3-b, III(c), relative to alternative regulation of small incumbent local exchange carriers, is repealed.

4 Effective Date. This act shall take effect upon its passage.

(Version C of Amendment to SB 22 -- Amended Language in Underline)

SB 22 – AS INTRODUCED

2011 SESSION

11-0998

06/09

SENATE BILL 22

AN ACT relative to alternative regulation of small incumbent local exchange carriers.

SPONSORS: Sen. Odell, Dist 8

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill modifies the requirements for use of an alternative regulation plan.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

11-0998

06/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to alternative regulation of small incumbent local exchange carriers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(a) is repealed and reenacted to read as follows:

(a)(1) Any combination of the following services is available to a majority of the retail customer premises in such small incumbent local exchange carrier's service area:

(A) Wireline or broadband service from other than the small incumbent local exchange carrier;

(B) Standalone broadband service from the small incumbent local exchange carrier provided separately from its wireline voice service;

(C) Voice service under any service plan as demonstrated solely by the publicly available coverage map of any wireless carrier; or

(2) The small incumbent local exchange carrier has 25 percent fewer access lines in service than it did on December 31, 2004;

2 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(b) is repealed and reenacted to read as follows:

The plan provides for stand-alone basic local service and maximum basic local service rates at levels that do not exceed and that do not increase by more than 5 percent in each of the 4 years after a plan is approved with the exception that the plan may provide for additional rate adjustments, with public utilities commission review and approval, to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes;

2 Alternative Regulation of Small Incumbent Local Exchange Carriers. RSA 374:3-b, III(b) is amended to read as follows:

The plan provides for *stand-alone basic local service and* maximum basic local service rates at levels that do not exceed **50 percent of the tariffed rate for basic local service of the small incumbent local exchange carrier at the time of the petition** ~~the comparable rates charged by the largest incumbent local exchange carrier operating in the state~~ and that do not increase by more than ~~10~~ **5** percent in each of the 4 years after a plan is approved with the exception that the plan may provide for additional rate adjustments, with public utilities commission review and approval, to reflect changes in federal, state, or local government taxes, mandates, rules, regulations, or statutes;

3 Repeal. RSA 374:3-b, III(c), relative to alternative regulation of small incumbent local exchange carriers, is repealed.

4 Effective Date. This act shall take effect upon its passage.

Parsons, Richard

From: Dan Feltes [DFeltes@nhla.org]
Sent: Wednesday, March 23, 2011 3:50 PM
To: Odell, Bob; Parsons, Richard
Cc: Alan Linder
Subject: SB 22

Dear Senator Odell:

We received a copy of the latest amendment to SB 22. Thank you for the rate cap change in Section (b) going from 10 percent to 5 percent on line 20 of the amendment. Would you consider adding the words "stand-alone" to Section (d)? As I recall from the last hearing, none of the parties, including Staff and TDS, opposed this addition. This would make absolutely clear that stand-alone phone service will continue to be offered to customers. Those two words, "stand-alone," could be potentially added to Section (d), on line 27 of the amendment, as follows:

The plan preserves universal access to affordable stand-alone basic telephone service.

Thank you very much for considering this.

Dan and Alan

Daniel J. Feltes
Staff Attorney
New Hampshire Legal Assistance
117 North State Street
Concord, New Hampshire 03301
P: 603.223.9750, ext. 2806
F: 603.223-9794

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Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: March 24, 2011

THE COMMITTEE ON Energy and Natural Resources

to which was referred Senate Bill 22

AN ACT relative to alternative regulation of small incumbent local
exchange carriers.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 1197s

Senator Bob Odell
For the Committee

Richard Parsons 271-3076

New Hampshire General Court - Bill Status System

Docket of SB22

Docket Abbreviations

Bill Title: relative to alternative regulation of small incumbent local exchange carriers.

Official Docket of **SB22**:

Date	Body	Description
1/4/2011	S	Introduced 1/5/2011 and Referred to Energy and Natural Resources, SJ 1 , Pg.20
1/21/2011	S	Hearing: === TIME CHANGE === 2/03/11, Room 102, LOB, 9:30 a.m.; SC9
2/3/2011	S	Hearing: === RECESSED === 2/03/11, Room 102, LOB, 9:30 a.m.; SC10
3/3/2011	S	Hearing: === RECONVENE === 3/17/11, Room 102, LOB, 9:00 a.m.; SC14
3/24/2011	S	Committee Report: Ought to Pass with Amendment #2011-1197s, 3/30/11; SC17
3/30/2011	S	Committee Amendment 1197s, AA, VV; SJ 11 , Pg.210
3/30/2011	S	Ought to Pass with Amendment 1197s, MA, VV; OT3rdg; SJ 11 , Pg.211
3/30/2011	S	Passed by Third Reading Resolution; SJ 11 , Pg.239
3/31/2011	H	Introduced and Referred to Science, Technology and Energy; HJ 35 , PG.1240
4/12/2011	H	==CANCELLED== Public Hearing: 5/3/2011 1:15 PM LOB 304
4/15/2011	H	Public Hearing: 5/10/2011 1:15 PM LOB 304
5/4/2011	H	Executive Session: 5/17/2011 1:00 PM LOB 304
5/18/2011	H	Committee Report: Ought to Pass for May 25 (Vote 15-0; CC); HC 41 , PG.1392
5/25/2011	H	Ought to Pass: MA VV; HJ 46 , PG.1582
6/8/2011	H	Enrolled; HJ 51 , PG.1724
6/8/2011	S	Enrolled
6/14/2011	S	Signed by the Governor on 06/14/2011; Effective 06/14/2011; Chapter 0175

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB 0022 ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE

HEARING REPORT

HANDOUTS FROM THE PUBLIC HEARING

PREPARED TESTIMONY AND OTHER SUBMISSIONS

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 0164s - AMENDMENT # 1113s
 - AMENDMENT # 0914s - AMENDMENT # 1197s

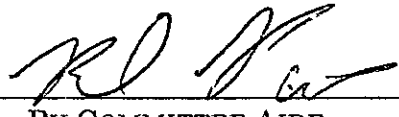
ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
 FINAL VERSION AS AMENDED BY THE SENATE

_____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): _____

IF YOU HAVE A RE-REFERRED BILL, YOU ARE GOING TO MAKE UP A DUPLICATE FILE FOLDER

DATE DELIVERED TO SENATE CLERK 7/22/11


BY COMMITTEE AIDE