LOCAL TELEPHONE SERVICE
Report of a Study by the
JOINT STANDING COMMITTEE ON
UTILITIES
2nd Regular Session of the
112th Maine Legislature

January 28, 1986

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NOTE: The Appendices are included in the full report, but not the summary report. Copies are available on request.

EXECUTIVE SUMMARY

This study was conducted because of concern over the impact of local telephone service pricing on the people of Maine. The most immediate issue is Local Measured Service, but there are two other issues of major importance: allocation of the costs of shared facilities among local and toll service; and universal telephone service. The Committee recommends continued oversight over these important issues.

Local measured service is scheduled to begin in 8 areas on February 15, 1986, as ordered by the Public Utilities Commission. The program was originally to take effect in June, but it was delayed to allow public hearings and further review. The program was modified as a result.

The plan is detailed in Figure 1. It allows residential customers to choose from 3 options:

- A is fully measured, with base rate of $6.70 and a cap of $16.65 to $18.00 depending on the exchange.
- B is measured only on-peak , with base rate of $8.70 and a cap of $17.65 to $19.00 depending on the exchange.
- C is a flat rate set at the cap of option A.

Usage charges, if any, are 2 cents per minute on-peak and 1 cent per minute off-peak.
Peak hours are: weekdays 9 am to 9 pm (A); and 9 am to noon and 2 to 7:30pm (B).
Business customers will all be fully measured, with base rate of $28.75 and a cap of $47.65 to $51.55, and a $3.25 usage allowance.

Supporters of the plan believe LMS will provide cost savings and help universal service as well as improve fairness and efficiency. Opponents disagree.

The cost of constructing and operating the telephone system depends in part on the amount of traffic. Repression of usage may bring cost savings: NET estimates $3.75 million for each 15% traffic reduction. Opponents believe the savings may be much less. Any savings must be weighed against the cost of measurement, which NET estimates as $3 million.

Local measured service can help universal service because the minimum cost of having a phone is reduced from about $13 per month to $6.70 per month so more people can afford it. However, opponents note that the usage charges imposed by LMS discourage use and make it expensive to make calls. Some believe a direct subsidy is a better way to help universal service.

In general, fairness is enhanced by a pricing system where those who cause higher costs pay more. PUC designed the LMS plan to achieve this by picking usage charges that approximately track usage sensitive costs. Opponents claim fairness is not achieved here because the usage charges are set much higher than the actual usage-sensitive costs.

System efficiency is enhanced under LMS in two ways. Charging more for calls during peak hours encourages shifting calls off-peak , thus making more efficient use of existing network capacity. And, the usage charge encourages customers to call less and reduce their phone bill. Opponents claim the usage charge is too high and causes uneconomic repression. When the entire economy is considered, reduced calling may cause significant economic and social losses.

The impact of local measured service on users is the subject of continued debate. Not much information is available on aspects such as the sociological effect on low-income people, or the competitive effect on telephone-dependent businesses.As for the effect on phone bills, PUC estimates that about 58% of residental customers would save and 42% would pay more., and about 58% of businesses would save, while 42% would pay more. Low-income users would divide about equally between savers and losers.

The Committee is interested in the concept of a Universal Service Fund to assist low income customers, especially with the impact of federally imposed interstate access charges. That fund could be supported by the General Fund and by federal waiver of the access charge. This committee recommends that the Taxation Committee consider such a plan.

A final issue is posed by a referendum to prohibit mandatory Local Measured Service, which has filed signatures to be on the November ballot.

The Utilities Committee did not reach consensus on that issue, and there are 2 legislative recommendations representing the opposing views within the Committee.

Some members felt that a good way to determine the effect of LMS was by trying the program out. So, Report X supports a 2 year trial of the proposed LMS program, banning LMS after 2 years unless the Legislature authorizes it to continue.

Some members felt that the program should be delayed until after the referendum. So, Report Y supports a delay of LMS until December 31, 1986, by which time the voters will have made their decision.

The Committee recommends that the Legislature consider these two bills.

FIGURE 1
TELEPHONE RATES SCHEDULED FOR FEBRUARY 15, 1986

1. RESIDENTIAL

Option A: Customers will be charged a basic monthly rate of $6.70. They will be charged 2¢ per minute for outgoing, local calls placed between 9:00 a.m. and 9:00 p.m. on weekdays. They will be charged 1¢ per minute for calls made at all other times, including weekends and holidays. Under Option A, bills for local service will not exceed $16.65 in Presque Isle and Waterville, and $17.30 in all other LMS exchanges except Portland, which is $18.00.

Option B: Customers will be charged a basic monthly rate of $8.70. They will be charged 2¢ per minute for local calls placed between 9:00 a.m. and 12:00 noon and 2:00 p.m. and 7:30 p.m. weekdays. Customers will have free local calling on weekdays from noon to 2:00 p.m. and from 7:30 p.m. to 9:00 a.m. as well as on weekends and holidays. Under Option B, bills for local service will not exceed $17.65 in Presque Isle and Waterville, and $18.30 in all other LMS areas except Portland, which is $19.00.

Option C: Customers who choose Option C will pay a single monthly fee of $16.65 in Presque Isle and Waterville, and $17.30 in all other LMS exchanges except Portland, which is $18.00. There will be no additional charges, and calls will not be measured.

- Exchanges are grouped according to the number of phone lines:
  D (11,000–25,000) Presque Isle, Waterville;
  E (25,000–55,000) Augusta, Hallowell, Bangor, Eliot, Kittery, Lewiston–Auburn;
  F (over 55,000) Portland.

- For comparison, the uniform flat rates would be $12.35, $12.85 and $13.35 in exchange rate groups D, E and F.

2. BUSINESS

Base rate	Usage rate per month		Rate group	Cap	Description
	Peak	Off-peak			
$28.75	2¢	1¢	D	$47.65	Measured
			E	$49.45	
			F	$51.55	

NOTES:
- Peak hours: weekdays 9 a.m.–9 p.m.

- Only one option is offered to business customers. It includes $3.25 usage.

- For comparison, the uniform flat rates would be $35.30, $36.60 and $38.20 in exchange rate groups D, E and F.

INTRODUCTION

This report is the product of a study on Local Telephone Service, authorized by the Legislative Council May 22, 1985. The study was conducted by the Joint Standing Committee on Utilities. It drew heavily on a report from the Public Utilities Commission, on public testimony at hearings held by the PUC and on input from other interested parties.

The most immediate concern is Local Measured Service (LMS), but the study considered two other issues of equal or greater importance: universal service and allocation of common system costs among local and long distance services. The report contains legislative recommendations on local measured service and recommendations for continued oversight on universal service and allocation of common costs.

The social and economic importance of telephone service is well established. The role of telecommunications in society has received much attention in recent years. The Legislature conducted a previous study of telecommunications in 1983, which led to enactment of the universal service policy (35 MRSA §74). The Governor's Task Force on Telecommunications issued a useful report in 1985. For most people, local service is the front line of telecommunications. How local service is priced will have a major effect on our future telecommunications network: what services are available, and to whom. For that reason, the Utilities Committee felt this study was needed.

The present study was triggered by citizen concern over a controversial proposal by the Maine PUC to implement mandatory local measured service on July 1, 1985. The legislative committee last year considered 8 bills which would have banned, delayed or modified local measured service, but when the PUC postponed implementation of LMS until February 15, 1986, the sponsors agreed to withdraw all the bills while studies were conducted.

In addition to this study, two other new factors have been introduced. The PUC has modified the original LMS plan. And, a citizens group has filed a petition for a voter referendum on mandatory LMS.

Thus, the Legislature is faced with two immediate questions: Is the revised LMS plan beneficial for the people of Maine? And, should the Legislature allow the LMS plan to take effect, or delay it until after the referendum? The Joint Standing Committee on Utilities gained important insights through this study, but divided on the recommendations on these issues, as described below.

OVERVIEW OF LOCAL TELEPHONE SERVICE

(1) HISTORY OF LOCAL MEASURED SERVICE IN MAINE

Low-Use Measured Service has been in effect on an experimental basis in Portland, Rumford, Milbridge and South Berwick since 1976. So far only 7% of eligible customers have selected it even though it is priced at only $4.58 per month (Portland rate, including 30 calls of up to 5 minutes). Business customers have also had a low-priced measured service option in those exchanges.

In 1981 and again in 1982 NET petitioned to offer optional residential LMS in several other areas. PUC denied these petitions, arguing that low users should not get discounts unless high users paid more to make up the lost revenue, but PUC also described LMS as a promising means of assuring reasonably priced basic rates and opened an investigation of that subject.

In November 1984, PUC ordered mandatory LMS in all 8 exchanges with electronic switching equipment: Augusta, Bangor, Eliot, Kittery, Lewiston, Portland, Presque Isle and Waterville. The program was to take effect July 1, 1985 after 6 months of comparative billings. The program had a minimum charge of $7 (including $1.90 of usage) and a cap of $15.30 to $16.70, with usage charges of 2 cents/minute (1 cent/minute off-peak). For business phones minimum rates represented about a 23% discount from flat rates and the cap was set 35% higher than the flat rate would have been.

The public response was immediate and generally negative. Consumer groups, small business and the Public Advocate opposed the LMS plan as unfair, describing it as "a pay phone in every home". They also criticized PUC for inadequate notice and lack of hearings on the specific issue of mandatory LMS. The Legislature also took an interest: 8 bills were introduced to delay or ban LMS. In June 1985, at the request of the Joint Standing Committee on Utilities, the PUC delayed the effective date to February 15, 1986 in order to take another look at LMS and the Committee initiated the study reported here rather than any of the proposed bills.

The PUC held public hearings in September in Kittery, Portland, Lewiston, Waterville, Bangor, and Presque Isle. Legislators from the Joint Standing Committee sat in on these hearings. When a revised plan was proposed in a stipulation signed by the Public Advocate, New England Telephone Company and the PUC staff, additional hearings were held in Augusta, Kittery, Portland, Bangor and Lewiston. Finally, on December 2nd, the PUC approved a revised, optional LMS plan, based on the stipulation, with a few revisions.

On December 20th, on the basis of another stipulation agreed to by NET, the Public Advocate, and the PUC staff, the Commission settled a pending NET rate case. The revised, optional LMS plan, adjusted for the rate increase was ordered to take effect February 15, 1986.

The new LMS plan offered 3 options for residential customers: fully measured; measured only on-peak; and unmeasured (flat rate). Business customers would all have measured service with a cap. The details are shown in Figure 1, including the effect of the rate increase.

(2) WHY THE CHANGE?

The original PUC order gave 4 reasons for implementing LMS: affordable prices; cost savings; fairness and efficiency.*

There are many upward pressures on local telephone prices, including federally imposed fees** for access to the interstate network, the need for new equipment, competitive forces in the long distance market, and general inflation. The historical upward trend is shown in Appendix E.

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* "to assure the continued availability of telephone service at affordable prices, it will be necessary to implement service alternatives. We believe that the concept of local measured service, especially with discounts for off-peak usage represents one of the most promising means of assuring that the basic telephone need of all citizens can be met at reasonable cost." (PUC, docket 82-124, cited in docket 83-179 p. 38)

"NET will experience long term cost savings as a result of the reduced levels of calling...converting to measured service will tend to reduce the volume of local calls as only those calls which are worth the cost will be made. This in turn will reduce the amount of new plant required to meet customer demands. NET has estimated that each 1% reduction in peak time calling volumes will reduce its annual costs by about $250,000. The Public Advocate (estimates) $210,000." (PUC, docket 83-179, p. 39 & 40)

"Charging higher rates for those customers whose calling patterns impose higher costs on the telephone system increases both the fairness and the economic efficiency of the system." (PUC, docket 83-179, p. 39)

** The Federal Communications Commission has imposed an End User "Common Line Charge", on each phone of $1 per month for access to the interstate telephone network. That charge will rise to $2 in mid-1986. That access charge increases the minimum cost of basic telephone service.

State policy supports universal service, which implies meeting the basic telephone needs of all citizens at reasonably affordable prices. The reduced price for basic service under LMS makes having a phone in their home affordable to more people, at least for limited use, even though usage charges may make it more costly to use.

The cost of constructing and operating the local telephone system depends in part on the amount of traffic. Charging customers for usage will reduce the traffic and that may reduce system costs. Whether any savings outweigh the added cost of measurement is discussed in section (7). NET noted that GTE-Illinois experienced a 20% reduction in peak calling volume when they implemented LMS. Opponents note that calling volume has rebounded over time and question whether GTE demonstrated any economic gains.

In principle, fairness is enhanced by LMS if high users cause higher costs and pay more. Meanwhile, customers whose calling patterns do not increase the costs will receive some reduction in their monthly bills. PUC estimated that two thirds of all customers would save under its original LMS plan. The other one-third would have to pay more.

The economic efficiency of the telephone system itself may be enhanced by having a usage charge which encourages customers to modify their calling patterns and reduce their own costs. The off-peak discount encourages shifting calls from peak to off-peak hours, to make more efficient use of telephone network capacity. To get system cost savings requires that the usage charge match traffic-sensitive costs. Opponents claim the efficiency is not gained because the usage charge is too high.

LMS will discourage bypass because customers with their own long distance systems will still have to pay a usage charge for the local portion of such calls. Similarly, LMS discourages customers from tying 2 local areas together to evade usage charges.

(3) WHAT IS PROPOSED?

The plan, now scheduled to take effect February 15, 1986, allows residential customers in the 8 exchanges with electronic switching* to choose among 3 options.

Other exchanges probably will be added when electronic switching is installed: Camden and Rockland will be considered in 1986. other exchanges scheduled for modernization in the next 3 years are listed in Appendix H. The options are: A-fully measured; B-measured only on-peak; and C-flat rate, as shown in Figure 1. Option A is capped at 35% above the uniform flat rate without LMS, and Option B is capped $1 higher than Option A. Customers who do not choose will be assigned to Option A because they cannot lose money compared to flat rate.

Customers will receive dual bills for the first six months showing what their bill would have been under the other options, as well as the option they choose. Customers can change options free during that six month period.

Business customers all will have measured service, with a cap set 35% above the uniform flat rate without LMS.

This revised plan is intended to respond to several criticisms raised in the hearings:

-It provides some choices for residential customers (opponents say there is still not enough choice).

-It provides a flat rate service for residential customers. The rate equals the cap for fully measured service (Option C).

-It provides "free" calling with no usage charge during off-peak hours (Option B).

- Under Option B it has extended off-peak hours: weekdays 12-2 p.m. and 7:30 p.m.-9 a.m., and all day weekends and holidays, while the original plan (and option A) have off-peak hours of only 9p.m. to 9a.m. weekdays plus all day weekends and holidays.

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*Exchanges and prefixes affected by LMS order

Augusta 622, 623, 626, 289
Bangor 941, 942, 945, 947
Eliot 748
Kittery 438, 439
Lewiston-Auburn 782, 783, 784, 786, 795
Portland 761, 772, 773, 774, 775, 780, 871, 874, 879
Presque Isle 762, 764, 768, 769
Waterville 872, 873

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2. BUSINESS

Base rate	Usage rate per month		Rate group	Cap	Description
	Peak	Off-peak			
$28.75	2¢	1¢	D	$47.65	Measured
			E	$49.45	
			F	$51.55	

NOTES:
- Peak hours: weekdays 9 a.m.–9 p.m.

- Only one option is offered to business customers. It includes $3.25 usage.

- For comparison, the uniform flat rates would be $35.30, $36.60 and $38.20 in exchange rate groups D, E and F.

(4) SHARING TELEPHONE SYSTEM COSTS

Setting telephone rates involves several steps:

-Determine the total revenue requirement,

-Allocate among service classes: toll, basic exchange, etc.,

-Allocate among customer classes within each service class.

The total revenue requirement is determined by the PUC by adding the allowable costs of operations to the fair rate of return on the capital investment (the rate base). This is the subject of a typical rate case.

Next, the total revenue requirement is allocated among the various classes of service: interstate toll, intrastate toll, basic exchange, and other services. The Federal Communications Commission regulates the interstate toll portion. The PUC regulates the rest by: (1) attempting to identify the specific costs caused by each class and (2) adding a portion of the common costs for equipment and operation such as the local loop which are used by all classes.

Allocation of common costs is the subject of great argument: The telephone company argues that 100% of the cost of the local loop should be borne by basic exchange service; consumers argue that toll services use the local loop too, and should pay their fair share. PUC has concluded that it is impossible to tell whether basic service is being subsidized by toll service or whether toll service is being subsidized by basic service. Further, they conclude that it doesn't matter because competition and new cheaper technology presents a threat of bypass which must be considered when prices are set. The possibility of competition is a major continuing issue. The Governors Task Force took note of its importance, and the PUC has opened a docket to consider it.

In short, if the competition can provide service to large users cheaper than the embedded cost of the existing telephone network, then who will pay the cost of the existing network? The embedded cost is the average cost of the existing facilities, as contrasted with marginal cost, which is the added cost of any additional facilities. Assuming the fixed costs of the network average about $24 per line per month that question will be the most important factor in determining the price of local phone service in the immediate future.

Further discussion of this issue, and a sample rate calculation are included in Appendix G.

Finally, once the revenue requirement from basic exchange service is determined, it must be allocated among users. Business has traditionally been charged a higher rate than residential based on the value of service concept, supported by presumed higher peak usage per line and the ability to pass costs on in the price of their products. In the past, for residential users no attempt has been made to allocate higher costs to high users and lower costs to low users. LMS does this by introducing a usage charge.

(5) IMPACT OF LOCAL MEASURED SERVICE ON USERS' MONTHLY BILLS

Overall, PUC found that a significant majority of customers would save under Local Measured Service. The NET tracking study found 58% of residential customers would save under the original plan. PUC expects that more may save under the revised plan. The tracking study also found that 58% of business customers would save. The impact on selected groups is also interesting, as shown in Table 2. Finally note that the impact on WATS resellers is unclear, but as high users they benefit from the cap.

TABLE 2
IMPACT OF LOCAL MEASURED SERVICE

GROUP	SAVERS(%)	LOSERS(%)
Elderly	66%	34%
Low-Income	48%	52%
Deaf	can't lose: capped at non-LMS flat rate	
Households with Teenagers	32%	68%
Volunteers	average cost increase 36 cents/month	
Business	58%	42%
Rural	not studied	
Shut-Ins	not studied	

Source: New England Telephone 7 month tracking study, based on comparative billing using the original LMS plan and a statistical sample of 2,000 customers.

(6) UNIVERSAL SERVICE

The PUC defines maintaining universal service as "maximizing the number of households and other entities able to be connected to the telephone system if they choose....not maximizing the use of the ... telephone system." (Docket 83-179 p. 31).

The Legislature recently enacted a policy supporting universal service, as follows: (35 MRSA §74)

> "The Legislature declares and finds that the 50-year effort to bring affordable, universally available telephone service to the public has served the State well; universal telephone service has contributed to the state's economic, social and political integration and development; the public benefits from universal telephone service because each telephone subscriber receives a more valuable service when virtually anyone else in the State can be called; significant rate increases may threaten universal service by forcing some Maine people to discontinue their telephone service. It is the policy of the State that telephone service shall continue to be universally available, especially to the poor, at affordable rates."

Universal service is fairly well established in Maine, since the fraction of households with phones is 96% in 1985.

Telephone service has a very low price elasticity of demand. That is, the demand for phone service is not highly dependent on price. Penetration has risen to 96% of households in 1985 from 95% in 1983 and 93% previously, even though the price rose from $10 to $12 per month in 1985.

Similarly, a national economic modelling study by National Economic Research Associates (NERA) estimates that if the flat rate doubled, telephone penetration would only drop 4%. If a measured alternative were available, penetration would only drop 1% assuming that the behavior of Maine customers is similar to a national sample. LMS is not expected to change the percent of households with phones by very much.

Universal service is less well established among low income people. Low income customers have fewer phones and greater demand elasticity. Only 83% of households with income below $7,000 had a phone in the early 1980's. And, the NERA study projects that if the flat rate doubled, telephone penetration would drop twice as fast among low-income customers as among average customers.

High installation charges can be a significant barrier to universal service while lower charges can enhance universal service. The NERA study found that installation charges have 4 times the effect of monthly service charges (per dollar of revenue generated). This is confirmed by the results of the reduced installation charge for low-income customers ordered by PUC in 1984. That plan was successful and resulted in a significant number of new installations (9000 in the first 8 months of 1985).

Finally, the federally-imposed access charges will have a negative impact on universal service. These end-user common line charges will rise to $2 per line in mid-1986 and may get even higher in the future. They must be paid even by those who make no interstate calls, and their cost adds to the cost of having a telephone.

(7) SPECIFIC QUESTIONS ABOUT LMS

1. DO ECONOMIC BENEFITS EXCEED COSTS OF MEASURING AND BILLING?

The economic analysis of benefits versus costs is the subject of some controversy.

The PUC originally estimated that the added economic cost of Local Measured Services is between 0.5 and 0.65 cents per 3 minute call. The Vermont Public Service Board estimated 0.6 cents/call; later, the PUC estimated 0.75 cents/call off peak and 1.25 cents/call on-peak. NET estimates their total added cost of measured service statewide at $2.97 million. The Public Advocate expects the costs to be greater.

The economic benefits of LMS to the telephone system depend on repression of peak traffic, which allows reduced capital investment. Repression is the reduction in peak traffic that results from implementing LMS. NET estimates annual savings of $3.75 million for 15% statewide traffic reduction; The Public Advocate estimates $3.15 million. On the basis of these numbers breakeven is expected at 12-18% repression at peak hours.

Experts differ on the amount of repression to be expected. PUC expects it to be significant and NET cited the experience of other companies which experienced a 20% reduction in peak calling initially. Others expect much less reduction over the longer term.

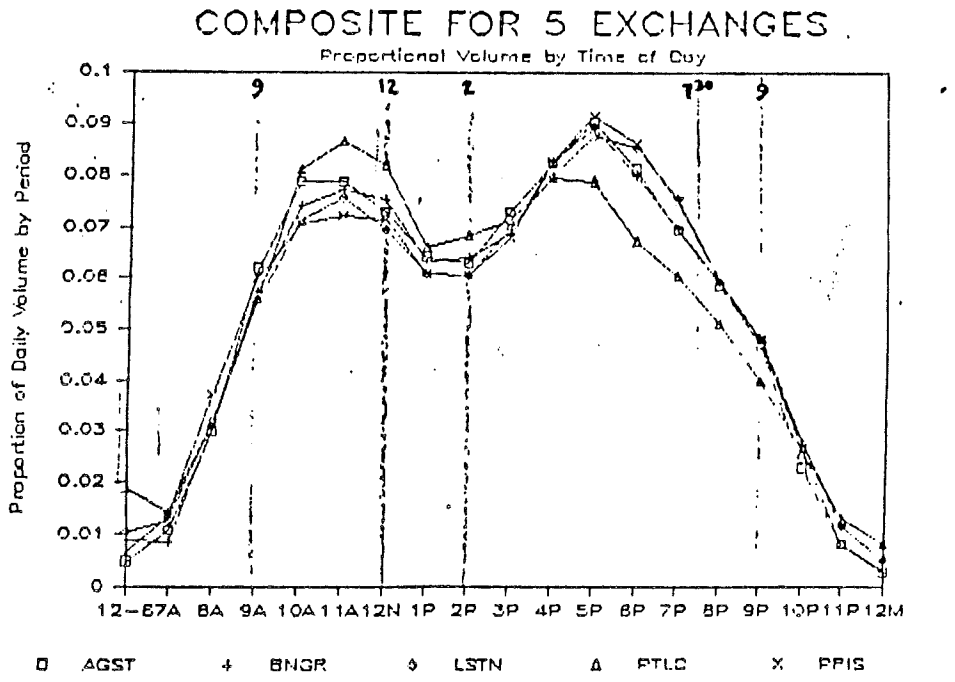
LMS results in a net economic benefit if the savings in capital investment exceed the added cost of measurement plus the value of the peak calls foregone. The PUC also views fairness as an economic benefit. More accurate data would be helpful in evaluating this equation, but unfortunately there is not a great deal of data available.

The PUC concludes ",...we expect that the savings will outweigh the costs. The only way to develop conclusive evidence on customer response to LMS pricing is to go forward with the program" (Order, Dec. 2, 1985).

2. WHEN ARE THE PEAK PERIODS?

Peak hours vary among exchanges, but typically there is a morning peak at 10-11 a.m. and an afternoon peak at 4-5 p.m. weekdays. The peak periods chosen in Option B are 9-12 a.m. and 2-7:30 p.m. Residential traffic is significantly greater than business traffic during those hours - especially at the afternoon peak. Traffic during those periods is greater than about 75% of maximum, as shown in Figure 3.

FIGURE 3
MESSAGE VOLUME BY TIME OF DAY
(Business & Residential Combined)



3. HOW MUCH ARE THE USAGE-SENSITIVE COSTS?

There is some disagreement, but PUC finds that the average embedded traffic sensitive cost for local exchange service is about $5 per month while the non-traffic sensitive cost is $24 per month. Non-traffic sensitive costs are the fixed costs, costs that do not depend on the volume of calls. Traffic sensitive costs are those which do depend on the volume of calls. The Public Advocate suggests that the traffic-sensitive portion may be higher, while other parties believe it may be lower. On a minutes of use basis usage of the local network is 90% for local calls, 10% for toll calls. Therefore it is a fair approximation to allocate all the traffic sensitive costs to local service. This translates to about 1 cent/minute.

On a marginal cost basis the cost on peak is significantly higher, and PUC suggests that it may approach 10 cents/minute. However, adequate marginal cost studies are not yet available.

4. DOES LMS INCREASE REVENUES FOR THE TELEPHONE COMPANY?

The 1985 PUC order states that "The Company's earnings remain regulated, so excess earning will not be permitted." The stipulation requires that the rates to implement measured service shall be revenue neutral, and that an adjustment will be made after 4 months experience to ensure revenue neutrality.

Some people fear that, if LMS takes effect, with its reduced price for minimum basic service, that will satisfy the desire to make basic service available to low-income people and open the door for the telephone company to raise its average monthly rates to 2 or 3 times their recent levels. That fear may be well-founded, or it may not, but rate cases, not rate design cases, shall be the cases in which the revenue requirement is set. Any concern for spiralling rates should be addressed in them.

However, LMS does allow utility revenues to increase automatically if calling volumes increase. That will help offset increased costs and help keep the actual rate of return closer to the allowed level. The company might even try to increase revenues by stimulating traffic. In any case, based on national growth the PUC estimates the increase to be small: about $250,000 statewide, compared to revenues of $77 million per year.

5. ARE THERE OTHER, BETTER OPTIONS?

PUC evaluated the following options for residential customers. Since rate design is a developing field, as other options are identified they should be evaluated.

-Usage charges only during peaks? Option B of the revised plan implements this idea.

-Usage charge only when system is actually experiencing a peak (indicated by distinctive tone)? Not yet commercially available.

-Smaller unrestricted local calling area? Customers would probably oppose this. They seem to want a larger area.

-Slow dial tone? Inefficient & ineffective. Only a small percentage of residential customers would choose this.

-Mandatory cap? the PUC order has a cap, and there is considerable support for a statutory cap on local service, rates although the details aren't worked out.

6. WHAT IS OTHER STATES' POLICY?

All but 4 states have some form of Local Measured Service, but the details vary greatly. Further details are in Appendix F. In most cases it is optional, at least for residential customers. And, in many cases it only applies in the major metropolitan areas. In New England, measured service is optional in most areas, with 5 to 15% of customers taking it. Vermont has mandatory measured service in Burlington and plans to extend it to the rest of the state.

FINDINGS AND RECOMMENDATIONS

1. The Committee finds that the additional review in 1985 by the PUC, including 10 public hearings as well as the review by the Legislative Committee on Utilities satisfies the need for an open regulatory process with adequate opportunity for public input to the regulatory agency.

The Committee also finds that further public input will come in the form of a referendum in November, 1986 based on the signatures filed with the Secretary of State, provided the signatures are validated.

The Utilities Committee is divided on whether to recommend delay of LMS until after the referendum:

- Report Y recommends delay of LMS until December 31, 1986 in order to permit the voters to make their preference known.

- Report X recommends no delay of LMS: by letting it go into effect for a 2-year trial period on February 15th as ordered by the PUC, customers in the affected areas will have over 6 months experience on which to base their vote and the Legislature will have 2 years experience in 1988 when they decide whether or not to authorize a permanent program. Report X also recommends an informal vote of telephone users in LMS areas in 1987 in order to provide information to the Legislature.

2. The Committee finds that the PUC established the LMS program for certain reasons: affordable prices, cost savings, fairness and efficiency. Although those reasons are good, there is continuing debate whether or not the LMS program gives the benefits those reasons imply.

- The Committee recommends that, if an LMS program is established, the PUC measure its success against the criteria of affordable prices, cost savings, fairness and efficiency when they decide whether to continue the program, modify it, or drop it in 1988 or thereafter.

3. The Committee finds that the revised LMS plan for residential customers contains 3 options:

A is a fully measured option with a low base rate and a cap equal to the flat rate.

B is a particlly measured option with no usage charge off-peak, and a cap $1 above the flat rate.

C is a flat rate option at an increased price with no usage charge at all.

The Committee finds that the plan for business customers contains only a fully measured option, with a cap.

The Committee also finds that LMS is scheduled to be offered in Augusta, Bangor, Eliot, Kittery, Lewiston-Auburn, Portland, Presque Isle and Waterville now, and in other areas when electronic switching equipment is installed.

The majority of the Committee finds that the revised plan gives more choice than the original, mandatory plan, but is divided on whether these plans provide customers with sufficient choice or not.

- Report X recommends, if an LMS program is established, that cap on residential rates remain as a permanent feature, and the cap on business rates remain, at least for the 2-year trial period.

4. The Committee finds that cost sharing among local and toll services is a major price determining factor. NET argues that toll subsidizes local, while opponents claim that local may even subsidize toll. PUC finds that it is impossible to tell whether toll subsidizes local or local subsidizes toll, and other factors such as the price of competitive or alternative services must be considered in setting prices.

The Committee also finds that, whether or not it is fair, there are strong forces pushing to shift more of the common costs of the phone system from long distance to basic phone rates. These forces include federal policy in FCC decisions, the rise of competition in long distance markets and the technological possibility of bypass: large users building their own system at a low cost.

- The Committee recommends that the PUC give special attention to this issue in the proceedings on competition and others. The Committee also recommends that this committee continue to study this issue and report on it to the Legislature towards the end of the 2-year trial period.

5. The Committee finds that, based on a demographic study in the NET tracking report, it is anticipated that under LMS winners will outnumber losers by about 2 to 1 in the general population, the elderly and small business. But among low income people there are likely to be about as many losers as winners, and among households with teenagers the losers will outnumber the winners 2 to 1. The revised plan, with option B may modify these figures.

- The Committee recommends that, if LMS is implemented, the PUC study the impact of the program on various user groups and take those findings into account when deciding whether to continue, modify or drop the program in 1988.

6. The Committee finds that, based on modeling studies, universal service is not highly price sensitive, but low income persons are more price-sensitive than average to increased monthly phone bills. The reduced installation charge can help offset this effect.

The Committee finds that universal service (i.e., the percent of households with telephones) is fairly well established in Maine, with 96% of the households having telephones. Universal service is less well established among low-income customers, where only 83% of the households have telephones.

The Committee also finds that the federally-mandated charge for access to the interstate phone network, which will rise to $2/month in June, works against universal service.

- The Committee recommends that the PUC study and report to the Legislature on a continuing basis the specific impact of any price changes for basis exchange service on universal service including the number of phones installed and the time spent on local calls.

- The Committee is interested in a Universal Service Fund to assist low income customers, especially with the impact of federally-imposed interstate access charges on every customer. A majority of the Committee feels that the fund would be supported by the General Fund and by federal matching by waiver of the access charge. The Committee recommends that the Joint Standing Committee on Taxation consider such a concept.

7. The Committee finds that there is disagreement whether or not the economic benefits of LMS will exceed the costs. Actual experience over a period of years would be needed to settle that question.

The Committee finds that the peak periods (during which traffic is greater than 75% of maximum) are roughly 9 a.m.-12 noon and 2-7:30 p.m. weekdays.

The Committee finds that there is disagreement on the true usage sensitive costs of the telephone system.

The Committee finds that local measured service itself will not substantially increase or decrease the revenues of the telephone company. Those revenues are addressed in the rate case, rather than in a rate design case. In addition, the PUC will order a rate adjustment after 4 months of actual experience to make sure that implementation of LMS is revenue-neutral.

The Committee also finds that nearly all states have some form of LMS, but in most cases it is optional, at least for residential customers.

- The Committee recommends, if LMS is implemented, that PUC study these issues carefully over the 2 year period.

8. As a result of this study,

- the Committee recommends that the Legislature consider two bills dealing with Local Measured Service which represent the opposing views within the Committee.

—One supports a 2—year trial with a sunset (Report X); and

—One supports a delay until after the referendum (Report Y).

These are included at the end of this report.

HW/elk/4608

PROOF SECOND REGULAR SESSION PROOF

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document **No.**

H.P. House of Representatives,

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SIX

AN ACT Concerning Local Telephone Service Rate Structure.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35 MRSA §80 is enacted to read:

§80. Local telephone service rates

1. Policy. It is the policy of the State that the rates for local telephone service to both business and residential customers shall be just and reasonable and take into account people's ability to pay.

2. Local optional measured service. The commission may approve an optional measured local service rate where it finds that such a rate is not inconsistent with other provisions of law, that it is fair and equitable, that it is consistent with the univer-

sal service policy of section 74 and that the net economic benefits to the telephone system will exceed the net economic cost of implementing that usage charge.

This subsection is repealed on May 1, 1988.

3. Rate structure. In any service area where local measured service is offered as an alternative to traditional flat-rate pricing, the rate structure for local telephone service shall include:

A. A fixed monthly charge, as determined by the commission, to make an appropriate contribution to the fixed costs of the telephone system. This contribution shall be set in a way that recognizes the cost savings resulting from joint use of common telecommunications facilities by local, toll and other services and that equitably shares the benefits of those cost savings among all services;

B. Except as provided in paragraphs C and D for residential and business customers, maximum monthly charges for calling to a customer's present local calling area, not to exceed 35% above the amounts the monthly charges would be if calculated on a flat-rate basis to supply the revenue requirement of the telephone company as determined by the commission;

C. For residential customers, any measured service rate structure shall include an option with no usage charge during off-peak periods as determined by the commission, when additional calls do not result in significant additional costs to the telephone system. The maximum monthly charge for this option may be $1 higher than the maximum permitted under paragraph B;

D. If ordered by the commission, the maximum monthly charge imposed by paragraph B may be exceeded for customers who use the local telephone network to complete interexchange calls, that is, calls beyond the local calling area for flat-rate customers, to provide shared tenant service or to provide coin service;

E. Except as provided in paragraph D, a flat-rate option shall continue to be available for residential and business customers; and

F. Any local measured service rate structure established in accordance with this section shall be revenue neutral when compared with the traditional flat-rate structure, as calculated by the commission.

This subsection is repealed on May 1, 1988.

4. Rate structure; local measured service prohibited. Unless authorized by statute, no utility may offer local measured service on either an optional or mandatory basis later than 90 days after adjournment of the Second Regular Session of the 113th Legislature. Unless continuation is authorized by law, any local measured service rate structure previously approved by the commission shall expire 90 days after adjournment of the Second Regular Session of the 113th Legislature and be replaced by a flat-rate structure.

Sec. 2. Effective date. The Maine Revised Statutes, Title 35, section 80, subsection 4, shall take effect on May 1, 1988.

Sec. 3. Report. The Public Utilities Commission shall report to the Legislature on July 1, 1987, on the impact of any local measured service rate structure in effect prior to that date. The report shall address the effect of local measured service on the various categories of users; residential, large and small businesses, with attention to special groups such as low-income, elderly, shut-in, deaf, speech-impaired and blind persons, as well as volunteers and volunteer organizations. The report shall address the effects of measured service on rural, suburban and urban customers, and its effects on local, county and state governmental agencies. The report shall evaluate the traffic sensitive and nontraffic sensitive costs of supplying local service. The report shall also analyze and compare the economic savings and the costs to the telephone system related to implementation of local measured service. The report shall include any other information

the commission believes will be useful in assisting the Legislature in determining whether or not to authorize continuation of local measured service.

Sec. 4. Users informal vote. Any telephone company offering local measured service as of July 1, 1987, shall poll its customers to determine whether they believe the local measured service program should continue. The poll shall be included as an insert in telephone bills issued in November 1987, in only those service areas where local measured service has been in effect at least since July 1, 1987. The form of the bill insert and the questions asked shall be approved by the Public Utilities Commission, after receiving public comment. The results of the poll shall be submitted to the Second Regular Session of the 113th Legislature and to the commission on or before January 6, 1988.

Sec. 5. Noncompeting measure. It is the intent of the Legislature that this Act not be interpreted as a competing measure, within the meaning of the Constitution of Maine, Article IV, Part Third, Section 18, with "AN ACT to Prohibit Mandatory Local Measured Service and to Preserve Affordable Traditional Flat-rate Local Telephone Service at as Low a Cost as Possible," an initiated bill which will be submitted to the voters in November, 1986. It is the further intent of the Legislature that this measure not be subject to referendum as a competing measure with that bill.

PROOF PROOF 4-L.D. PROOF PROOF

STATEMENT OF FACT

This bill is report X of the study of local telephone service conducted by the Joint Standing Committee on Utilities. The bill permits a 2-year trial of optional local measured service pricing of telephone service for business and residential customers, provided that the Public Utilities Commission finds that it is not inconsistent with other provisions of law and that it is fair and equitable and helps maintain universal service. Additional requirements for residential customers include a mandatory cap and mandatory availability of calling with no time-based usage charge during off-peak hours.

A sunset provision is included: Local measured service is prohibited 90 days after adjournment of the Second Regular Session of the 113th Legislature in 1988, unless authorized by a future legislative Act. A Public Utilities Commission study is required with a report on July 1, 1987, to assist the Legislature in making that determination.

An informal vote of telephone users will be taken in November 1987, in the areas where local measured service is available. The results of that vote will be made available by January 6, 1988, to the 113th Legislature in order to inform the members in their decision whether or not to authorize continuation of the program.

It is the intent of the Legislature that this bill not be a competing measure with the proposed referendum: "AN ACT to Prohibit Mandatory Local Measured Service and to Preserve Affordable Traditional Flat-rate Local Telephone Service at as Low a Cost as Possible."

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PROOF PROOF 5-L.D. PROOF PROOF

(EMERGENCY)
PROOF SECOND REGULAR SESSION PROOF

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document No.

H.P. House of Representatives,

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SIX

AN ACT to Prohibit Local Measured Service Prior to December 31, 1986.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, local measured service is scheduled to go into effect February 15, 1986; and

Whereas, it is likely that there will be a referendum on this subject in November 1986; and

Whereas, it is prudent to delay implementation of local measured service until after the election of November 1986, in order to permit the voters to make their preferences known; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following

legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

35 MRSA §80 is enacted to read:

§80. Local telephone service rates

1. Prohibition. Except as provided in subsection 2, local measured service, both optional and mandatory is prohibited prior to December 31, 1986. Prior to that date, the Public Utilities Commission shall establish rates for local telephone service only on a flat rate basis with unlimited local calling.

2. Exception. Any optional local measured service plan in effect on December 31, 1985, may continue in effect. Usage based prices may also be charged to customers who use the local telephone network to complete interexchange calls, that is, calls beyond the local calling area for flat-rate customers, to provide shared tenant services or to provide coin service. The commission may order just and reasonable changes in the rates for the services covered by these exceptions.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

A local measured service telephone rate structure is scheduled to go into effect February 15, 1986, in 8 localities. A group of citizens has circulated legislation to ban mandatory local measured phone service and direct the State to keep flat-rate local phone service at as low a cost as possible. That legislation is to be submitted in February as an initiated bill. Under the Constitution of Maine, Article IV, Part Third, Section 18, if the Legislature does not enact that legislation the initiated bill will be submitted to the voters in November 1986.

This bill is report Y of the study of local telephone service conducted by the Joint Standing Committee on Utilities. This bill prohibits local measured service prior to December 31, 1986, except for resold services and for the limited optional measured service that was available at the end of 1985.

5682012186

LOCAL TELEPHONE SERVICE STUDY
112th Maine Legislature
January 28, 1986

APPENDICES

NOTE: The Report on Local Telephone Service to the Joint Standing committee on Utilities from the Maine Public Utilities Commission. (2 Edition Jan. 15, 1986)

-Response to "30 Questions" from the Committee

-Supplementary Questions & Response

-App. A. PUC Order Nov. 13, 1986 Docket No's. 83-179 & 83-213

-App. B. Local Measured Service Information Sheet

-App. C. Stipulation (LMS) Oct. 8, 1985

-App. D. PUC. Order Dec. 2, 1985 (LMS) Docket No. 83-179

-App. E. Charts: Frequency vs. Call Rate

-App. F. Charts: Message Volume vs. Time of Day

-App. G. Vermont Public Service Board Order (LMS) Jan. 20, 1984

-App. H. Chart: GTE Illinois, Change in Usage with LMS

-App. I. chart: Price Elasticity of Local Usage

-App. J. Residential Demand for Telephone Service, study by National Economic Research Associates (1983)

-App. K. PUC Order Dec. 20, 1985 (NET Rate Case)

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APPENDIX A

With modifications, as approved by Legislative Council: May 22, 1985

COMMITTEE STUDY

1. COMMITTEE: Joint Standing Committee on Utilities

2. SUBJECT OF STUDY: Local Telephone Service

3. PRIORITY NUMBER: #1

4. COMPLETION DATE: January 1986

If additional time is required the Committee will request it.

5. ANALYSIS OF THE PROBLEM:

The problem is to determine the proper rate structure for local telephone service in Maine. Information is needed on the impact of the proposed Local Measured Service (LMS) rate structure on various groups of users, including: low-income, elderly, handicapped, families, remote areas, small businesses, volunteers and others. Information is also needed on alternative local rate structures such as: flat rate service, optional LMS, and discounted limited service options. Part of the problem involves determining the proper share of the fixed costs of the telephone system to be borne by local telephone service. The allocation of fixed costs of the local loop greatly influences local telephone rates. The telephone company suggests that all the cost be paid in basic local rates. Others support sharing among local, long distance and other services. Information is needed on the effects of various choices.

6. REASON FOR STUDY:

These problems raise significant public policy issues concerning the kinds of telephone service that will be available in Maine and who will receive it. There is concern for regional equity between areas covered by LMS and those not and for maintenance of universal service in accordance with legislatively enacted policy. Mandatory Local Measured Service would be a major change in ratemaking policy. This Committee feels that more public information and debate is needed before such a major change is implemented. The recent delay of LMS announced by the PUC allows time for both the PUC and the Legislature to hear from the affected public, to receive a full

year of parallel billing data and to study these problems in further detail. The study will allow members of this Committee to hear citizens' concerns, review PUC's analysis of the issues the report of the Governor's Task Force and other information. If necessary, based on the study the Committee will report out a bill or bills for consideration by the 2nd Regular Session.

7. MEMBERS OF SUBCOMMITTEE:*

Subcommittee members will vary, including 2 or 3 members of this Committee who live nearest the hearing location, along with one staff person. PUC plans 5 or 6 field hearings.** There will be one full committee meeting in the late fall to review the PUC's analysis of the issues prior to preparation of the study report. If additional time is necessary it will be requested at that time.***

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* As approved by the Legislative Council 5-22-85.

** PUC originally held 6 field hearings plus 1 in Augusta. As a result of the stipulation to a revised LMS program, the PUC held 4 more field hearings.

*** The Legislative Council authorized the Utilities Committee to hold an additional full committee meeting in November to review the stipulation. The council also authorized an extension of the reporting date to January 29, 1986, which allowed for several meetings on this study in January when the Legislature was in session, including one public hearing on reports X and Y.

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APPENDIX B

REPORT

to the

JOINT STANDING COMMITTEE ON UTILITIES

from the

MAINE PUBLIC UTILITIES COMMISSION

Second Edition

Local Telephone Service

Responses to Questions from the Committee

January 15, 1986

INTRODUCTION

The Public Utilities Commission has prepared this Report as a Response to the 30 Questions on Local Telephone Service propounded by the Joint Standing Committee on Utilities of the Maine Legislature on June 17, 1985. In preparing these responses, the Commission was aided by the contributions of the Office of the Public Advocate and the New England Telephone Company as well as the PUC Staff. The answers given herein have been made as concise as possible. The Committee should be aware, however, that volumes of data and testimony on local measured service are included in the record in NET's last rate case (Docket No. 83-213) and in the local measured service case (Docket No. 83-179). The necessarily concise responses given in this Report are really a summary and not a substitute for the information and material contained in those two cases.

A copy of the Commission's November 13, 1984 Order implementing local measured service is attached to this Report as Appendix A. In essence, that plan provided that all business and residential customers in the six areas of NET's territory served by electronically switched offices would convert to a measured service plan on July 1, 1985. Under the terms of that plan, residential customers would pay $7.00 per month for basic service, plus 2¢ per minute for calls made between 9 a.m. and 9 p.m. on weekdays, 1¢ per minute at all other times. Included in the $7.00 fee was a $1.90 usage allowance. The rate was also capped at about $16 per month. Beginning in February 1985, NET provided dual bills to all its customers who would be converted to LMS. These bills showed customers what their monthly bills would have been had LMS been in effect. On May 10, 1985, the Public Utilities Commission ordered the implementation of LMS postponed until February 15, 1986.

During the month of September, 1985, the Commission held a series of 12 public witness hearing sessions in six locations where LMS would be implemented. These were Kittery, Portland, Lewiston, Waterville, Bangor, and Presque Isle. A total of 124 public witnesses testified at these hearings. The Commission Staff, the Office of the Public Advocate, and New England Telephone Company jointly prepared an informational flyer which was distributed to persons attending those hearings. A copy of the flyer is attached hereto as Appendix B. Copies of the questions responded to in this Report were also made available to the public at these hearings.

On October 8, 1985, the Commission was presented with a Stipulation signed by the Public Advocate, New England Telephone, and the Commission Staff. A copy of this Stipulation

is attached as Appendix C. These signatories proposed that the Commission replace its earlier mandatory plan with a plan which makes local measured service optional for residential customers. In essence, the Stipulation proposed that residential customers in the six affected areas be given a choice of three options for local telephone service.

Option A: A $6.00 monthly charge, with all local calls billed at 2 cents per minute between 9:00 a.m. and 9:00 p.m. on weekdays, one cent per minute at all other times. A customer's monthly bill would be capped at $1.00 more than the flat rate in his exchange.

Option B: An $8.00 monthly charge, with calls between 9:00 a.m. and noon and 2:00 p.m. and 7:30 p.m. billed at 2 cents per minute on weekdays, no charge for calls made at other times. A customer's monthly bill would be capped at $1.00 more than the flat rate in his exchange.

Option C: A flat monthly charge of $15.30, $15.95, or $16.70, depending on the customer's local exchange, and unlimited local calls at no additional charge.

Under the Stipulation, business customers would be subject to the Commission's original mandatory measured service plan. Because business calls are necessarily concentrated in the daytime hours, provision of an Option B type of rate to business customers would be virtually certain to create a new peak during the noon to 2:00 p.m. period.

The Commission held a series of four additional public witness hearings to receive testimony on the proposed Stipulation. These hearings were held in Kittery, Portland, Lewiston, and Bangor. A total of 14 persons testified at these hearings although far fewer persons were present over all at these hearings as compared to the earlier round of hearings.

The Commission considered the proposed Stipulation on November 13, 1985, and agreed to accept the Stipulation on several conditions including reducing the cap on Option A to the level of the flat rate charge under Option C. A copy of the Commission's Order is attached as Appendix D.

On December 20, 1985 the Commission accepted a stipulation in the pending New England Telephone Company rate case (Docket No. 85-159). This Second Edition has been updated to reflect that decision. The Order accepting the stipulation is included as Appendix K.

. Q. Do Maine customers prefer to have mandatory measured service, flat-rate service, or another option?

. A. Testimony given at numerous public witness hearings throughout the State on the Commission's and Stipulated plans provide some indication of Maine customers' attitudes to measured service. In general, the testimony indicates substantial opposition to "mandatory" measured service but considerable support for optional local measured service. Customer acceptance and support appears to increase as customers become more familiar with measured service. This has been the case in other jurisdictions and the studies described below conducted in Maine confirm the same movement towards acceptance.

Some of the public witnesses who opposed measured service appeared to misunderstand features of the proposed program. For example, some witnesses incorrectly assumed that measured service meant an increase in the total earnings NET would be allowed to recover. Other witnesses did not believe that a cap which assures no residential customer will pay more than 35% above what the flat rate would have been, would be a lasting feature of the measured rate.

A substantial majority of witnesses representing business customers favored measured service, including many customers that would have higher bills under measured service. In general, business customers preferred pricing that reflects actual use and costs.

Five studies were conducted that provided information on attitudes concerning pricing of local exchange service in Maine. These studies, which are a part of the record in Docket No. 83-179, are:

- Survey of flat and measured customers (12/76 & 9/78)
- Local measured service in Maine: Survey and analysis of the Residential Sector (4/82)
- Consumer response to proposed rate increases in Maine (3/84)
- Universal Telephone Service in the Age of Competition: The State of Maine (2/84)
- Attitudinal Surveys on Local Measured Service (12/84 & 7/85)

2. Q. Are there other options to price local service? Identify and evaluate other options for local service pricing including for example:

a) Measuring only during peak periods?

b) Surcharge on calls when system is actually experiencing peak traffic, with a distinctive dial tone for identification?

c) A choice of different levels of service for a fixed monthly charge?

d) Optional Measured Service: can this be priced so as to recover its costs and not cause an increase in price for flat-rate service?

e) Mandatory Cap on unlimited service equal to say twice the minimum charge? Another figure?

2. A. a) Measuring only during peaks is technically possible; however, we have been informed that message processing costs would continue to accrue to identify off-peak messages. Off-peak messages would then be dropped from the billing cycle. Thus, for residential customers under Option B as established by the Stipulation calls during the off-peak period will be measured but no charges will apply. The Commission considered reducing all off-peak charges to zero but decided otherwise due to the risk that such a rate would produce new peaks.

b) To our knowledge this feature, which has obvious attractiveness, is not in place anywhere in the country, nor are we aware of any studies that address the subject of distinctive dial tone for system peak periods. The costs are unknown, and it is not clear that such a system could be made compatible with more than one measured option. This approach, however, will be explored more fully in future proceedings.

c) While a choice of different levels of service for a fixed monthly charge is technically feasible, each presents its own set of problems.

i) Slow Dial Tone

For most parts of the State isolating this service to the small percentage of customers who might be interested would be inefficient and would require a determination of the specific calling patterns of this group of customers, as well as the engineering and installation of additional equipment. This approach produces minimal cost savings and hinders "emergency" telephone usage.

ii) Restrict the Local Calling Area.

Restricting the local calling area would permit unlimited local calling only in the home exchange. There are accounting and central office costs associated with this option as it would be necessary to revise billing procedures, reroute traffic and modify the network accordingly. In addition, our experience with petitions to enlarge local calling areas suggests that most customers' reaction to this option would probably be unfavorable as this alternative would, in effect, shrink the size of their present calling area.

iii) Restricted Number of EAS Trunks.

On EAS calls, the trunking capacity could be designed not to meet total busy hour call capacity. During peak times a customer desiring to complete a call would dial a code which would use either "peaking trunks" or the toll network to complete the call. A charge would be made for such calls which could not be accommodated using the base line non-peak trunk capacity. This plan may be confusing to customers.

d) Optional measured service of the type offered for the past several years in several Maine exchanges cannot be offered without increasing the flat rate to all other customers.

e) Unlimited service is to be offered at the cap on the monthly rate. With capped measured service, the capped rate is equivalent to an unlimited service rate.

3. Q. How does LMS affect small businesses that are highly dependent on local calls?

3. A. The tracking reports show that local measured service benefits small business to the same extent as it benefits business as a whole. Approximately two-thirds of small business will save money with local measured service when compared to the existing flat rate pricing structure.

If a small business is one that has high usage and is in the minority which does not save, the amount of the increase is limited by the cap on measured rates; therefore, the local calling portion of the bill could not increase more than 35 percent or about $10 per line per month. In addition, these customers may be able to control their expenditures by talking less or calling during off-peak periods.

4. Q. How do you address the geographical inequity produced because some areas have the equipment for LMS and others don't?

4. A. Geographical rate differences in the price of goods are no more "inequities" in the utility business than in any other. Most businesses in LMS exchanges will save money therefore opening a very slight competitive advantage over those with mandatory flat rate service. Almost all goods and services have costs and prices that vary throughout the state. Uniformity has always been a consideration in setting rates and offering new services, but some geographical differences are inherent in the way utility systems are designed and constructed. For example, all areas of the state are not served with high voltage or three phase electric current. Thus, customers requiring these services either have to locate near existing facilities or pay to have the required facilities installed. In the telephone system customers that are located in areas served by electronic offices have a host of services not available to other communities such as call waiting, call forwarding, speed calling, 3-way calling and certain high speed data services.

The proposed plan will be in effect for 41 percent of the business lines when implemented on February 15, 1986. The current ESS conversion schedule will provide for the potential expansion of the new plan to 54 percent of the lines by the end of the year 1986 and 61 percent by the end of 1987.

5. Q. Is it fair for small business to pay LMS rates while competitors enjoy flat rates?

5. A. Yes. Cost differentials for goods and services are an economic fact of life, and this one will rarely if ever amount

to enough to convey a major competitive advantage. Furthermore, the word "enjoy" is misplaced in this question since most small businesses will pay less on the measured rate than will their competitors on the mandatory flat rate.

6. Q. What is the impact of LMS on special groups who depend on the telephone more than others; low-income, elderly, shut-ins, deaf, speech impaired, hearing-impaired, blind?

6. A. The zero cost, off-peak option (Option B) provided in the Stipulation responds to the concerns raised by those who depend on the telephone more than others (shut-ins), and who are low income. Also, in compliance with the Commission directive, the Company contracted for a demographic analysis of the impact of the proposed measured service plan on low-income and elderly customers. The study showed that slightly less than 50% of low income users benefitted from LMS. 66% of elderly users benefit from LMS.

The Commission determined that hearing-impaired customers should be exempt from the plan. The Company has filed a proposed tariff that will limit the charges to those customers to the amount they would pay for flat rate service while allowing the customers who would save the benefit of the measured service program.

Under measured service all customer groups benefit from lower cost access to the public switched network, the ability to control expenditures, and a maximum or "cap" to protect high volume users from experiencing substantial increases in converting to the new plan. As a whole these advantages outweigh the increased usage charges recovered from a minority of higher-than-average users.

The issue of whether assistance is required for certain subscribers who cannot afford necessary telephone service is a Universal Service issue and not an issue unique to measured service. The two should not be confused. The provision of Universal Service funding by taxpayers at such time as it is needed to meet the needs of income eligible customers who cannot afford to retain telephone service should be considered by the legislature.

Those members of specific demographic groups, such as elderly or shut-ins, who do not have the financial resources to pay for increased local calling costs without hardship should be provided with the assistance needed to retain access to the telephone network regardless of whether measured service is available or not. This is consistent with the recommendation of the Governor's Task Force on Telecommunications.

7. Q. Will the fear of high phone bills discourage volunteers and undermine charitable and political organizations which provide important public services?

7. A. Volunteers should be able to continue their activities without incurring significantly higher costs particularly in light of the cap on measured service, the zero cost off-peak option, and the lower access charge. Contacts with regulators in Vermont, where measured service has been implemented without a zero cost off-peak option and with a substantially higher cap than the Maine program, show that LMS has not been a problem with volunteers or political organizations.

No witness at our hearings had any evidence to the effect that the imposition of LMS had curtailed volunteer activity in other states.

NOTE: (SEE ANSWER TO 6)

8. Q. What is the effect of LMS pricing on WATS re-sellers?

8. A. The tariffs of New England Telephone allow for the resale of Foreign Exchange Service (FX) and Wide Area Telephone Service (WATS) by re-sellers certified by the Commission. To use the services of a WATS re-seller who has procurred FX services to distant NET exchanges or who is within the local calling area of the customer, a customer of New England Telephone would dial a local number, dial the appropriate access number and the telephone number of the party they wished to call. The benefit to the customer is a reduction in intrastate toll charges. Under a local measured service environment, the customer, not the re-seller, would be charged for local usage charges in addition to any charges from the reseller.

Currently, there is one re-seller operating in Maine - Express Telecommunications in Hampden. If a Bangor area customer uses Express Telecommunications for intrastate long distance service, their long distance call would route to Hampden and be initially processed by Hampden Telephone Company, an independent telephone company regulated by this Commission. New England Telephone would pay a portion of the long distance revenue generated back to Hampden Telephone Company.

The Stipulation addresses the re-seller issue in paragraph 1. See Appendix C.

9. Q. What is the reason for supporting LMS?

To create a discount basic service and thus promote universal service?

9. A. While local measured service will further universal service by reducing the cost of a telephone for most customers, it is not the only means to that end. Particular attention should be focused on the significant group of low income residents currently without telephone service. In this regard the Commission implemented a reduced service connection charge for income eligible customers. The expansion of measured service offerings will not adversely impact universal service because the offering provides alternatives to existing service offerings at a lower rate. In addition, the expansion of measured service will benefit all customers including low income and homebound customers by providing them with the means to exercise control over their telephone bill. Thus, customers with low, moderate or off-peak usage will pay less for telephone service. Expansion of measured service will strengthen universal service.

10. Q. What is the reason for supporting LMS?

To save system costs by suppressing peak use and delaying the need for additional equipment?

10. A. Measured service will reward customer calling patterns that lead to increased network efficiency and savings in terms of future switching and trunking investment requirements. Measured plans which include time-of-day pricing promote greater network efficiency by encouraging customers to make calls in the lower cost off-peak periods, thus reducing the investment required to provide local service.

Measured and time of use pricing will have the same effect on the telephone system that it has on electric, gas and water utilities. Correct pricing helps to reduce the need to add new and much more costly electric generating plants, supplemental gas facilities, and new sources of water.

11. Q. What is the reason for supporting LMS?

To help telephone company revenues rise closer to their allowed levels?

11. A. Because LMS moves the Company's rates closer to its costs LMS will help the Company's revenues match changes in expenses thereby minimizing earnings erosion. See response to Item #21 following.

12. Q. What is the reason for supporting LMS?

Other reasons?

12. A. Additional reasons for supporting measured service include the following:

Studies of local exchange calling indicate that there is wide variation among customers in local usage. A relatively small percentage of customers account for a disproportionately large share of peak usage, and therefore a large share of the costs. These customers, who are presently subsidized by all others, should pay for exchange service more in line with the costs they generate.

With measured service, the Company will be offering as its least costly basic telephone service option a service which provides access to the telephone network and measured usage. Since most customers are low to moderate users of local service, measured service allows them an effective way to hold down their costs for service.

The mid-priced option will allow unlimited off-peak usage at a low rate which will be particularly attractive to those who can shift their calls to off-peak periods.

Appendix E shows the frequency of calling for business (IFB) and residential (IFR) customers in the affected exchanges.

13. Q. What is the proper definition of "peak period?" Based on that definition what is the actual peak period experienced in each exchange both busy hour and busy season? Is it feasible to implement LMS any other peak period in LMS billing?

13. A. Traditionally, "peak period" has been defined for central office design in terms of "average busy season busy hour." This data represents the usage expected for the single daily hour which is responsible for the heaviest loads during the three busiest months of the year, e.g., 10:00-11:00 a.m. during January, March and April. Most central offices in Maine have "winter" busy seasons (December-April). Busy hours vary by office with peaks generally occurring in three daytime periods: mid-morning, mid-afternoon and early evening (for further reference, see Public Advocate Data Request 12, Item #1 of this Docket).

As in the case of electric utilities, large amounts of capital are expended to meet peak load requirements. While in theory all of these fixed costs can be assigned to a very narrow "on-peak" period, in practice there are broad time periods that have a significant probability of including a new peak. Thus,

even if the peak period for an office is the 2-3 p.m. time period, pricing calls during this time period as peak calls and all other calls at a lower or zero off-peak rate will almost certainly create new peak periods from 1-2 or 3-4 p.m. Thus, for pricing purposes the on-peak period should include all hours for which there is a significant probability that a peak period will occur in the future in response to time of use pricing. The attached (Appendix F) graphs show the hourly usage for five of the affected exchanges and the combined hourly usage for business and residential customers.

The diversity of options seeks to disperse peak period calling and therefore reduce capital outlays. This should help hold down future rate increases.

14. Q. What are the fixed costs and traffic sensitive costs of the electronically switched exchanges, with traffic sensitive costs estimated in both peak and off-peak periods on a system-wide and per-customer and per-call basis?

14. A. The fixed (non-traffic sensitive) and traffic sensitive costs of the telephone system are accounting terms that have been used over time for the purpose of allocating costs between state and federal jurisdictions. Until recently these concepts did not weigh heavily in the design of telephone rates. As technologies evolved the actual cost characteristics of new equipment has not always fit the historical definitions. Thus some plant that is today characterized as non-traffic sensitive is actually traffic sensitive and vice versa. Generally, with newer technologies a greater portion of central office costs are becoming non-traffic sensitive and a greater portion of the local loop costs are becoming traffic sensitive. Overall we believe that new technology is causing more plant to be traffic sensitive.

The precise level of traffic sensitive and non-traffic sensitive costs are still in dispute and will probably always be subject to reasonable disagreement. The average embedded traffic sensitive cost for local exchange service is about $5 per month and nontraffic sensitive costs are about $24 per month per customer. The $5 per month average translates to about 1¢ per minute.

On a marginal cost basis estimates are significantly higher and may exceed 10¢ per minute of on peak use.

The majority of the nontraffic sensitivite cost of $24 per month is associated with the cost of the local loop.

Most of the rate design disputes involve the allocation of the local loop costs among local service, toll service, and other services.

The Vermont Public Service Board (VPSB) reviewed similar cost data for the Burlington area which is served by an electronic office similar to those in service in Maine. A copy of the Order is attached as Appendix G.

The costs of average local calls in Vermont in 1983 average between 2¢ and 10¢ per minute on peak (9 a.m. to 9 p.m.) and .5¢ per call off peak. The average nontraffic sensitive costs were $25 per month.

15. Q. What is the added cost of providing measured service including measuring equipment, billing, and public information. Are there additional operator costs? What is the cost of itemized monthly billing under LMS?

15. A. Measurement costs are approximated as shown below:

	Set Up $/message	Conversation time $/minute
On Peak	$0.005	$0.0016
Off Peak	$0.0	$0.0012

Additional operation costs are between .2¢ and .3¢ per call.

The VPSB found the total measuring costs inclusive of operating services to be .58¢ per message.

These costs do not include one-time implementation costs such as dual billing, advertising, and customer information. Just as in the case of metering electric and water service the cost associated with metering must be weighed against the resulting benefits of measuring such as lower long-run costs due to deferrals of the addition of new equipment and achieving a more equitable distribution of costs to customers.

Our analysis shows that the cost of measuring is outweighed by the likely long-run benefit to ratepayers (see Appendix A, pages 39-44) and that customer equity and universal service goals are furthered by well designed LMS programs.

With respect to itemized local billing the company has filed a proposed tariff which charges residential customers

75¢ per month and business customers $2.50 per month. The underlying cost analysis has not yet been reviewed by the PUC.

16. Q. To what extent does the cost of a call to the telephone company depend on its duration as distinct from the cost of making the initial connections?

16. A. Both the duration and the frequency of local calls impact the items of equipment required for successful completion. However, each type of switching equipment is different in the way it processes calls. For example, in the case of a #1AESS (the type of switch installed in Portland), just to set up a call requires the processor, the dedicated paths through the switching system, a component to receive the digits dialed, and components that provide the ringing signal to both the calling and called parties. Once the call is set up and initiated, the path through the local office (of which there are a limited number) and a portion of the system's memory is in use. If the local call involves a neighboring switching system, such as Bangor to Brewer or Portland to Peaks Island, the circuits between the two switching systems will be in use during the call and separate equipment would be utilized at the far office for the setup and the duration of the call.

As estimated by the Company the average costs of conversation time (duration) and set up (initial connection) in a flat rate environment are as follows:

	Set up $/message	Conversation Time $/minute
On Peak	$0.0129	$0.0157
Off Peak	$0.0037	$0.000

17. Q. To what extent does the cost of a local call depend on the distance between the central offices?

17. A. The distance between the central offices influences the cost of usage because the investment in facilities used to connect offices (interoffice trunks) depends on the length of these facilities. Generally these distance sensitive costs are not great. For example, intrastate toll rates now increase as a function of distance (17¢ per minute for 0-10 miles to 43¢ per minute for calls over 86 miles) to a far greater extent than actual distance sensitive toll costs. In the case of local costs EAS routes cost about 30% more per call than non-EAS local

costs. EAS routes refer to Extended Area Service which means that an area's local calling area includes a nearby area served by a separate switch such as Augusta-Gardiner.

18. Q. The telephone company finds a state-wide average of $5 for the usage-sensitive cost of local calling. Is there doubt about this figure? Does it apply to electronically switched exchanges?

18. A. The $5 per month 1982 average usage sensitive cost of local exchange service has not been the subject of serious dispute. However, historical classifications of traffic and non-traffic sensitive costs may change as new technologies are employed. We anticipate this issue will be addressed in all future NET rate cases.

(NOTE: See answer to Question 28.)

19. Q. If, as argued in support of LMS, the cost of local service is significantly dependent on the number and duration of calls wouldn't that be true for toll calls also? If so, what is the cost justification for discount long distance service such as WATS and 1-800?

19. A. Local usage costs do vary with frequency and duration of calls. The same is true of toll-type calling [MTS (Standard Toll Service) or WATS]. In the past WATS service was made available on a flat rate basis which was not consistent with the fact that the related costs were usage sensitive. As a result, during the last two NET rate cases WATS rates have been revised in two significant respects. First, the flat rate option is no longer available. All WATS usage is now based on the hours of actual use. Second, the fixed access cost of WATS service is collected as a separate, fixed monthly charge. Even with these improvements customers with a substantial amount of toll calling can benefit from lower rates by subscribing to WATS service. The justification of WATS discounts vs. MTS is twofold:

1. The WATS rate structure encourages customers to disperse usage thereby potentially moving some usage out of peak periods and lowering costs.

2. Billing expenses on a per call basis are lower for WATS calls than for MTS due to factors such as bulk billing. WATS customers do not receive itemized bills.

20. Q. Based on actual experience in any states with mandatory LMS, how much does peak calling decrease with a given increase in price (i.e., what is the price elasticity of

demand)? What is the cost of adding capacity for, say, another 500 local calls at the peak? What are the expected savings to the telephone system due to suppression of peak calling under LMS?

20. A. The most extensively reported example of conversion to mandatory LMS took place in rural Illinois. Several exchanges served by GTE were converted to mandatory LMS in 1977. Prior to conversion the flat rate was about $9 per month. The measured service rate was about $5.50 per month plus 2¢ per call and 1¢ per minute with a 20% to 50% discount for calls placed during the evening and night respectively without a cap. A graph showing the before and after usage is attached as Appendix H. Other estimates of price elasticity are shown in Appendix I.

Experience showed significant reduction in calling on peak especially for residential customers. In the reported studies the peak calling reduction approached 20%.

The exact amount of the reduction will depend on the design of the rates. Economic models suggest that LMS with a cap causes a reduction in peak calling that is less than LMS without a cap.

Recent NET studies show that a 5% peak reduction is all that is required to offset the increased cost of measurement. Any additional reduction will result in lower rates to all ratepayers.

The costs of adding capacity for another 500 calls depends on the equipment that must be added. NET has estimated that each percentage point reduction in peak calling reduces costs by $250,000 per year.

21. Q. Between rate cases, utility revenues usually lag below the allowed rate of return. Since LMS allows revenues to increase automatically if calling volumes increase, will LMS help close this gap? What is the estimated additional revenue to NET under LMS assuming, say, 2 years between rate cases?

21. A. Yes, but the effect is not major. If usage grows, measured service revenues will increase to offset the associated increased costs and the resulting erosion in earnings which occurs between rate cases. Historically local usage per line has grown at about 1% per year. If this trend were to continue usage revenues from the 8 exchanges will increase by $67,000 or .03% of the company's revenues. If LMS were in effect statewide, the increased revenue would be about $250,000. This amount of additional revenue would not have a significant effect on overall earnings and would be offset by the increased cost of the usage. Without LMS, the costs would increase without any

offsetting revenues. To the extent that usage levels out or declines due to measured service the Company will experience a reduction in revenues and associated costs. Rates that reflect costs reduce the need for rate cases without allowing excessive earnings.

22. Q. What is the effect of price on the demand for telephone service? If 93% of the homes had phones at an average monthly rate of $10, how many dropped out when the rates rose to $12? How many will add phones if the rate drops to $7? How many will drop phones if the rate rises to $16? $20? $25?

22. A. Whenever a price of a particular good or service is lowered or raised, some level of customer reaction is expected. The estimates of the impacts of increased rates on residential subscription all point to a very low elasticity of demand. There is little or no empirical data to demonstrate that the increase from $10 to $12 has had an impact. In fact, the proportion of households with telephone service in NET's Maine service area has increased from 95% in 1983 to 96% today. This may be due to the fact that increases in basic service rates have not kept pace with increases in income or inflation. It may also reflect the reduction of the installation charge in 1985.

Similarly, if the rate drops to $7, we would not expect to see a significant increase in the number of households which have telephone service. For rate increases to $16, $20, and $25, we do not know the precise impact. However, one model, which is national in scope, estimates that household penetration would only drop by about 5% with a doubling of existing flat rates or 1% if a reduced measured service rate were available. A copy of the study performed by NERA for the Bell operating companies is attached as Appendix J.

23. Q. Installation costs: What is the impact of discounted installation costs on the number of homes with phones? On the uncollected phone bills?

23. A. In Docket 83-179/213, the Commission ordered a reduction in the installation and restoral charge for eligible recipients. The reduced charges became effective on January 1, 1985. From January 1, 1985 through August 31, 1985, the Company received some 9,150 approved forms from the Department of Human Services for the installation discount and 101 approved forms for restoral after denial for non-payment. A significant number of new installations were in homes that were without telephone service for a long period of time.

This experience shows that the high cost of installation (in 1984 the installation charge ranged from $45.75 to $65.00) was presenting a higher barrier to universal service than the basic monthly charge. The reduced installation charge allows persons to obtain telephone service, and LMS's lower monthly charge will help people keep their service.

NET currently has no information on the impact of reduced rates on uncollected phone bills, but is attempting to collect data on this subject.

24. Q. What would be the effect of a universal service subsidy to low income people under various assumptions? What would the cost be?

Assumptions: target group includes all on SSI, AFDC, Food Stamps, Medicaid, fuel assistance.

1. Subsidy = $2.00 applicable to LMS basic monthly charge

2. Subsidy = $4.00 applicable to LMS basic monthly charge

3. Subsidy = difference between flat rate and cap

4. Subsidy = difference between minimum rate and cap.

24. A. The clear effect of LMS plus the $10 per month reconnection charge that the Commission put into effect in the same docket last year is to promote universal service. A customer who could not afford phone service a year ago was looking at a 1 year cost of about $200 (the $55 connection charge plus, about $144 in monthly charges). Now the lowest one year cost (even after the rate increase approved in December, 1985) is $90.40 (the $10 charge plus Option A for 12 months without outgoing calls). The lowest cost for an Option B customer is $114.40 (with no outgoing calls during the peak hours). Thus the Option A minimum provides a 55% reduction in total one year cost or a 44% reduction in monthly charges. The Option B minimum allows a 43% reduction in the one year cost or a 27.5% reduction in monthly charges. Either way, measured service will make it considerably easier for a low income person to get and keep telephone service.

The following charts include the specific development of the cost impact of each of the four items, under the assumptions used in the Stipulation. All figures shown reflect only the costs of the subsidy itself and do not include any administrative costs which would be incurred by New England Telephone or the Department of Human Services.

General Assumption:

Target Subsidy Group includes all on SSI, AFDC, Food Stamps, Medicaid and fuel assistance

Specific Assumption #1

- Subsidy = $2.00 in LMS areas

Specific Assumption #2

- Subsidy = $4.00 in LMS areas

Cost:	Assumption #1	Assumption #2
Residence Customers	83,837	83,837
# Eligible (15%)	12,576	12,576
Annual Subsidy - Taxpayers	$301,824	$603,648

Rate:

Under Assumption #1:

If a subsidized customer chose Option A, his monthly rate would be $4.70, plus on peak usage. If he chose Option B, his monthly rate would be $6.70, plus on peak usage. If he chose Option C, his monthly rate would be between $14.65 and $16.00, depending on his exchange.

Under Assumption #2:

If a subsidized customer chose Option A, his monthly rate would be $2.70, plus on peak usage. If he chose Option B, his monthly rate would be $4.70, plus on peak usage. If he chose Option C, his monthly rate would be between $12.65 and $14.00, depending on his exchange.

If the cost of these subsidies were assumed by non-eligible LMS ratepayers, their monthly bills would increase by 35¢ under Assumption #1 and 71¢ under Assumption #2.

Specific Assumption #3

- Rates for eligible customers would be limited in usage charges to existing flat rate service levels.

A subsidy equal to the difference between the flat rate and the cap which might have deserved consideration under the Commission's original LMS plan no longer makes sense under the stipulated plan. Measured

Option A is capped at the same level as the flat rate, Option C. Option B is capped at $1.00 more than the flat rate, but there is no need to create a $1.00 subsidy for Option B customers as they could have service priced at no more than the flat rate by moving to either Option A or C.

Read another way, this assumption entails a subsidy only to high use low income customers, since the low users won't reach the flat rate. Such a result is obviously unwise, since it eliminates most of the incentive to reduce peak time calling for the high volume callers.

Specific Assumption #4

- Eligible customers would pay minimum rate ($6.70, under Option A) only regardless of usage.

Cost:	Assumption #4
Average 1FR bill	$12.85
Proposed Minimum LMS bill	6.70
Total Cost	$928,171

If the flat rate gets too high should there be a subsidy in non-LMS areas?

Yes, if the flat rate gets too high, a targeted subsidy for non-LMS areas should be considered. However, as discussed in the answer to question 22, we have only national studies as to how many customers would drop off or join the telephone network at any given level of change in basic exchange rates.

25. Q. What people would be left out by a targeted subsidy?

25. A. Under the present installation subsidy program, people receiving assistance from one of five existing programs (AFDC, SSI, Food Stamps, HEAP, or Weatherization) are eligible for the subsidy. Anyone not receiving assistance from one of the existing programs today due to ineligibility would also be ineligible for the existing telephone subsidy. Assuming any future subsidy programs should have similar eligibility guidelines any person not qualifying for one of the existing programs would be left out by a targeted subsidy.

26. Q. What are the pros and cons of general fund financing of a targeted subsidy to maintain universal service?

26. A. Taxpayer subsidy of universal service has at least four advantages over ratepayer subsidy:

1. A taxpayer subsidy provides a better chance for recovery of the costs of the subsidy on a progressive basis. The tax structure distinguishes between income levels; utility rates do not.

2. Universal service benefits the economy and social structure of the entire state. It logically should be funded in the same manner as other programs having similar goals and effects.

3. The generally used method of funding income transfer programs is through the tax structure. It may be somewhat easier for the public to accept a telephone subsidy program, particularly if it targets customers who already receive state aid, as part of their tax burden rather than as an item on their utility bills.

4. To the extent that by-passers leave the telephone network, and any increase in rates including a surcharge for universal service adds to the incentive for those with economic alternatives to leave the system,*/ a tax funded subsidy would continue to collect the bypassers fair share of the universal service subsidy.

Taxpayer funding does not make sense if the tax is levied solely upon telephone utilities. Such a tax would be an expense recoverable by the utilities from all of their ratepayers through rates without regard to income. It has none of the advantages of the progressive tax structure and all of the disadvantages of the regressive rate structure.

Any consideration of the pros and cons of taxpayer funding must take into account the pros and cons of ratepayer funding which are discussed in the answer to Question #27.

*/ Taxpayer subsidies are generally preferred by economists because taxpayer funding has a neutral effect upon consumer purchasing decisions. Subsidies which are included in the price of another service or product can have a negative effect consumer upon demand for that other service or product. This effect is less when the service sold is an essential monopoly service but it would weigh on the side of dampening demand.

27. Q. What are the pros and cons of making universal service a service requirement of the utility franchise and then setting rates to achieve that goal?

27. A. Ratepayer subsidy of universal service may be somewhat easier to administer than use of the tax structure because it does not require any income transfer to or through the state, as a third party. The transfer is accomplished by means of rate design, although those who are to receive the subsidy would have to be identified or at least be verified through the use of records from other state agencies.

Other benefits of a ratepayer subsidy are:

1. It leaves the matter with the Public Utilities Commission in the first instance. The Commission has the greatest familiarity with the utility rate design, and with the receipt and interpretation of utility cost information.

2. It is probably easier to create a subsidy during ordinary rate making procedures than through legislative procedures.

3. As a group, ratepayers theoretically benefit more from Universal Service than do taxpayers as every additional line means that more share the fixed costs.

4. If, as NET alleges, all residential basic exchange rates are now subsidized to some degree, the reallocations of that portion of the basic exchange subsidy that now goes to people who don't need it would be a minimally disruptive way to create a universal service fund. However, the validity of NET's overall cost allocation methodology remains in dispute.

The primary disadvantage of using the rate system to cover the costs of a subsidy is that it recovers the costs on a regressive basis. All ratepayers, even those who are just above the subsidy income eligibility standards pay exactly the same surcharge as do wealthy telephone users.

Another problem is that some independent telephone companies may have an unusually high number of customers needing a subsidy. Those remaining ratepayers would pay a much larger proportional subsidy than the ratepayers who were served by the remaining telephone companies.

28. Q. Determine to a reasonable approximation the marginal costs and the stand alone costs of the following services: flat rate local, in-state toll, WATS, private line, enhanced services (call waiting, forwarding, etc.), in-state directory assistance.

28. A. Until the current pending rate case (Docket 85-159) NET has not presented a marginal cost of service study for local, toll, WATS, enhanced service, or directory assistance. Because these studies have not yet been reviewed we are unable to say how the marginal costs of these services compare to average embedded costs or existing rates. The company has presented a marginal cost of service study for its private line services and this study was used in design existing private line rates. Generally this study showed that the marginal cost of private line services were slightly higher than existing average embedded costs. Studies presented in Washington D.C. and Maryland show marginal costs of local service exceed average costs. The opposite conclusion has been reached in telephone company studies in Wisconsin and Illinois.

The company has been ordered to file marginal cost of service studies in the pending and future rate cases. These studies will be reviewed in the current proceeding and our findings will be reported to the Committee at the end of the case.

The company has not prepared stand alone cost studies for any of its services. These studies require the analysis of individual separate hypothetical telephone systems designed to provide each telephone service separately (e.g., local only, toll only, etc.).

Once analyzed, the ratios of stand alone system costs to total system costs would be used to allocate the common costs (mostly the local loop costs) of the existing system. For example, if the sum total of the various stand alone local system costs were $400 and the stand alone costs for the local system $200, local rates would be set to recover 1/2 (200/400) of the common local loop costs.

Proponents of the stand alone approach argue that the network has been designed and constructed to serve the more demanding requirements of the toll network. They argue that the local network would be significantly cheaper if it were designed to serve local needs only.

The Company disputes these claims and argues that the same improvements serve both local and toll needs and that the network would not be cheaper were it not for toll calling requirements.

Assuming the Company is correct the adoption of a stand alone methodology would allocate about 50% of common costs to local and the remainder to toll. Under existing rates about 50% of common costs are recovered through local charges although this has occurred as a result of historic residual pricing theory, not cost allocations as proposed by the stand alone theory. Residual pricing means that prices are first set for all services other than residential local exchange services to recover direct costs plus a reasonable amount of common costs. Then, remaining revenues, if any, are recovered from residential exchange ratepayers. The Company contends that 100% of local loop costs should be assigned to local service.

It is important to recognize that the debate over cost allocation largely obscures the true issue - pricing. For example, proponents of stand alone pricing hope to allocate a larger portion of the fixed local loop costs to toll services. Assuming their arguments were to prevail one would still be left with the overriding issue of how to price toll services. If large amounts of fixed costs are recovered through usage sensitive toll rates, large users (such as the State of Maine) will have a strong economic incentive to construct their own private system bypassing the telephone company. This will leave the same level of fixed costs to be recovered from fewer customers resulting in higher rates. If the principle of stand alone costing were to be extended to the toll area, toll rates would include a flat monthly charge for toll service. This flat charge would be designed to collect that portion of the fixed local loop costs allocated to toll service. This is precisely what the Federal Communications Commission access charge decision has done with respect to the portion of the local loop costs allocated to interstate toll. The FCC's access charge decision is opposed by many of the same groups that oppose LMS and support stand alone pricing for basic exchange service.

The arguments presented to the legislative committee and to the PUC purport to revolve around cost allocation. In fact, the real issue is pricing i.e., how should prices or rates be set to recover the costs of various services. As a general matter representatives of low income residential consumers argue that large portions of fixed local loop costs should be allocated to toll services and should be recovered on a usage sensitive basis. They simultaneously oppose the recovery of usage sensitive costs on a usage basis for local services. Representatives of large users generally argue that more of the local loop costs should be allocated to local services and that any fixed costs allocated to toll rates should be recovered on a flat rate basis. Otherwise, they argue that large users pay too large a share of the fixed system costs. While these cost

allocation questions are important, they have little to do with the issue of local measured service. Under any cost allocation scheme, mandatory flat rate pricing is less fair and less efficient than the present optional measured service plan.

29. Q. Calculate the allocation of common costs in three different ways: common costs allocated based on the relative use of common facilities for each category of service, common costs allocated in the same ratio as the cost of hypothetical stand alone systems to provide each service, common costs allocated at the marginal cost of service. Identify any unallocated residual cost under this method and suggest how it should be allocated.

29. A. In large part this question has been addressed in response to item 28. A rough approximate of the allocation of common costs on a stand alone basis is 50% local 50% toll. On a minutes of use basis the allocation would be roughly 90% local 10% toll. We are unable to provide any further guidance at this time regarding the effects of using marginal cost pricing to allocate common costs. Again, this issue is irrelevant to our conclusion that the present optional LMS program is preferable to mandatory flat rate pricing.

30. Q. Would a charge for access to the local loop by all toll carriers be a feasible way of recovering some common costs? If so, would it best be recovered as a fixed or a per-call basis?

30. A. Currently interstate toll carriers in Maine pay for roughly 27% of NET's non-traffic sensitive costs. The figure is higher for many of the independent telephone companies. For example, about 38% of Continental Telephone Company's non-traffic sensitive costs are now being allocated to interstate toll. These payments or cost allocations are governed by the Federal Communications Commission. A recent FCC decision will reduce this level of recovery to a uniform 25% for all carriers and the FCC's access charge decision is moving toward recovery of these costs by means of a monthly flat rate end user charge. One dollar a month is already being charged to all residential customers and a higher amount for all multi-line business customers.

SUPPLEMENTARY QUESTIONS

1. p. 2. Under the revised LMS plan accepted in the stipulation of December 2, 1985 Option A is capped at the flat rate of Option C. Option B is capped $1 above the flat rate of Option C. Why?

2. Appendix D (Dec. 2, 1985 PUC Order). Commissioner Harrington questioned whether the 12:00-2:00 p.m. weekday hours of Option B really will have no incremental cost. Might not a new peak be generated then? If so, won't it be necessary to add a time charge at those hours?

3. p. 3. Why are there no calls included in the basic monthly charge in LMS Option A when there were $1.90 worth of calls included in the original LMS plan?

4. Q. 1. The report says that a substantial majority of witnesses representing business customers favored LMS. Wasn't there considerable difference of opinion? Didn't a significant number of business customers oppose LMS?

   Also, didn't business customers find the cap essential to their support of LMS?

   Appendix D, p. 4. Finally, is it true that the rates of large business customers using a PBX will decline under LMS from 50% above the previous flat rate to 35% above that flat rate?

5. Q. 1. Who did the 5 studies on attitude concerning pricing of local exchange service? Did they all confirm consumer movement towards acceptance?

6. Q. 1. Please comment on customer preferences in other states. For example, we have heard that Colorado decided not to implement mandatory LMS because customers do not appear to want it. They have had optional LMS available for some time but only 1% have chosen LMS.

   On the other hand, we have heard that Vermont introduced LMS in the Burlington area and now customers in the rest of the state are asking for it.

   Finally, some parts of Maine (Portland?) have had optional LMS available at a big discount for several years. What % of the customers have chose it?

7. Q. 1. Many customers fear that cap will not be a lasting feature of LMS. Would PUC support legislation requiring a permanent cap?

8. Q. 1. Many customers opposed the mandatory nature of the original LMS proposal. PUC modified the program to include a flat rate as one of the options. Would PUC support legislation requiring that a flat-rate option be available?

9. Q. 2A.(c)(ii). This question proposes unlimited calling with no time charge in the home exchange. Aren't the marginal costs of these calls very low because they do not use interexchange switching and trunking facilities?

10. The report suggests that customers reaction would be unfavorable. That seems logical under flat rates. But, under LMS, wouldn't customers see this as an improvement? Could surveys be taken to find out?

11. Q. 2.(e). Unlimited service at a capped rate is included in the PUC Order. At the hearings, some Commissioners indicated that legislation requiring a cap would be acceptable. Would PUC support legislation mandating a cap?

12. On the other hand, do you see a need to remove the cap in the future, at least for heavy business users who would otherwise be subsidized by the system?

13. In other states that have LMS, do any of them have a cap?

14. Q. 3. The report indicates that LMS benefits small business just like all business, by saving 2/3 of them money and benefits the rest by allowing the opportunity to control costs and protecting them with a cap. NO QUESTIONS.

15. Q. 4. & Q. 5. The report implies that inequities between flat rate and LMS areas will be small because the phone bills of customers in LMS areas will not differ by large amounts from those in non-LMS areas. Is that correct?

16. It also implies that such inequities will be short lived because electronic switches, and LMS with them, will be spreading over most of the state within a few years. Is that correct?

17. Q. 6. The PUC has responded to the concerns of shut ins and low income persons by adding the zero cost off peak option (Option B). This is attractive. How have those groups responded to Option B?

18. If assistance is required for Universal Service aren't there two options for funding: taxpayers or ratepayers?

19. Q. 7. The report shows no evidence of adverse impact of LMS on volunteers. On the other hand, have there been actual studies of this, in Vermont or other states? Should Maine be doing a study together with any implementation of LMS?

20. Q. 8. The stipulation implies that the cap may be removed on WATS re-sellers at some future date. Would that be a cost-justified action? Would that be likely to drive WATS re-resellers out of business?

21. Q. 9. The report states that LMS will promote Universal Service by reducing the cost of the telephone for most customers. Do you have an estimate of the expected increase in % of homes with telephones?

22. Q. 10. The report states that LMS will reduce network costs by delaying the need for additional equipment. Do you have an estimate of the annual savings in capital investment? Roughly, what monthly savings would that produce on the average phone bills?

23. Q. 11. The report states that LMS will help keep rates closer to costs. It would seem that would benefit both the company and the ratepayers by reducing the need for rate cases. Is that correct?

24. Q. 12. The report notes that a small percentage of customers account for a large percentage of peak usage, and that LMS will make them pay more nearly in line with their costs. If rates for large users go up too much, won't they bypass the local loop (for example, by using PBX instead of Centrex)?

25. Q. 13. The report provides considerable information on peak periods, but it is shown separately for residential and business. Can you supply information on how total message volume (business plus residential) varies with time of day?

26. Q. 14. The Vermont data provides an interesting benchmark on various aspects of local costs. Average Non-traffic sensitive costs are $25, about the same as the $24 for Maine.

27. The traffic-sensitive costs are .5 cents per call off-peak. Is an average call about 3 minutes? If so, isn't Maine's planned 1 cent/min. (3 cents/call) off peak charge too high? Shouldn't it be about 0.2 cents/min. or 0.5 cents/call instead?

28. Finally, the report states that on peak traffic sensitive costs are 2 to 10 cents/min. in Vermont but Appendix G (page 5, item 5) shows only 2 or 3 cents/min. Which is correct?

29. Q. 15. The Table of Measurement costs indicates cents in the heading and $ in the body. It appears that the body is correct, i.e., set up measurement costs $.005 which equals 0.5 cents) on-peak and zero off-peak. Similarly, conversation time measurement costs $.0016 per minute on peak and $.0012 off peak (which equals .16 and .12 cents/minute). Is this correct? Savings?

30. The analysis in Appendix A states that measuring costs would be between .5 and .65 cents/call and the cost of measuring would be $2.97 million. Is that in the 8 LMS areas, or NET system-wide? How many local calls are there per month in the 8 areas? System wide? What is the average duration of a local call?

31. Q. 16. The Table appears to be mis-labeled. Shouldn't the heading read $? (Then the cost for an on peak message would be about 1.3 cents setup plus 1.6 cents/minute duration, while off-peak would be 0.4 cents set up and zero for conversation time).

32. Q. 17. The report notes that intrastate rtes now rise to a far greater extent with distance than costs (15 cents/mile up to 10 miles and 41 cents/mile beyond 86 miles). For comparison, what are typical costs for those distances?

33. As for Extended Area Service (EAS) are we to understand that Augusta and Gardiner have separate switches but are in the same EAS area? Do Augusta (or Gardiner) customers pay more than customers in an area with the same number of customers on a single switch?

34. Q. 18. The report states that the usage-sensitive costs of local calling average $5/month statewide, but that may change with new technology. NO QUESTIONS.

35. Q. 19. The report states that WATS rates have been revised to reflect true costs by including both a fixed access charge and a time-based usage charge. It adds that the discounts to WATS customers are justified by shifting traffic off-peak and by bulk billing. How much is the cost saving per month to the company for a typical WATS customer due to each of these affects? How much is the monthly charge paid by a typical WATS customer? What would they pay under standard (MTS) toll rates? What is the saving to the customer by choosing WATS?

36. Q. 20. When GTE converted to LMS in part of Illinois in 1977 using a plan quite similar to that planned for Maine peak traffic dropped 20%. NET estimates savings of $250,000 per year per 1% increase in peak calling. Does the NET figure apply system-wide, or in the 8 LMS areas? I think system-wide. This suggests an estimated $5 million per year saving. Is that a fair estimate?

37. What was GTE's experience with business customers?

38. Assuming the 1977 GTE experiment was successful has LMS been extended throughout Illinois? If not, why not?

39. The report (p. 15) includes an NET estimate that a 5% peak reduction would offset measuring costs. Appendix A (page 40) estimates this figure at 12%. Which is correct?

40. Q. 21. The report states that LMS does allow revenues to track costs better as wage grows (or shrinks). NO QUESTIONS.

41. Q. 22. The report states that the proportion of NET households with telephone service has risen from 95% in 1983 to 96% today despite rate increases, and it cites a study predicting only a 1% drop in customers with a doubling of rates. Apparently, the demand for basic service is not very price-sensitive. NO QUESTIONS.

42. Q. 23. Experience suggests that the reduced installation charge for low income persons has increased the number of phone customers by over 5,000. How many residential customers are there? What is the % increase?

43. Q. 24. The report develops the rates and the subsidy costs of a representative sample of Universal Service subsidy options.

subsidy	cost
$2	$301,000
$4	$603,000
about $10	$1,430,000

NO QUESTIONS.

44. Q. 25. A targeted subsidy would leave out people who are not in one of the 5 specified groups: AFDC, SSI, food stamps, Maine Energy Assistance Program, or Weatherization. NO QUESTIONS.

45. Q. 26 and Q. 27. Discuss in some detail a taxpayer vs. ratepayer funding of a Universal Service subsidy if one is needed.

46. Is there a possibility that local rate will rise slowly enough that there will be no need of a subsidy to retain or even expand Universal Service?

47. The report notes that a higher percentage of ratepayers of some independent telephone companies may need a subsidy. Is the demographic information available to support this?

48. Q. 28 and Q. 29. The report discusses in some detail the marginal costs and stand-alone costs of the various services, local, toll, etc. It also points out that these questions are important for cost allocation, but not so relevant to the choice between flat rates and LMS.

49. Isn't it true that from the point of view of the customer, the allocation of fixed costs can have a larger effect on his or her phone bill than the choice of LMS or not?

50. The report states that PUC will report further on marginal cost pricing at the end of the pending NET rate case. We look forward to those findings with interest.

51. Q. 30. The report states that the Federal Communications Commission (FCC) is reducing charges to interstate carriers for access to the local loop to 25% of the fixed costs, and the FCC is moving to bill these access charges directly to the individual customer instead of the carrier.

52. Are these changes beneficial to customers in Maine? Can the PUC do anything about it? Lobby the FCC?

53. Are similar charges likely to be ordered by the PUC for access to the local loop in connection with intrastate toll calls?

Answers to Supplementary Questions

Q. 1. Opt. A's cap equals the Opt. C rate to ensure that a customer who is put on Opt. A through failure to respond does not "lose." Additionally, Opt. B's higher cap may lead some people to take a different option, thereby reducing the threat of creating new peaks at 12-2 p.m. or 7:30 p.m.

Q. 2. The Stipulation (para. 10) provides for changes in the existing measured service rate structure if new peaks are created which will have a detrimental impact.

Q. 3. The parties to the Stipulation believed it to be more equitable (cost-based) to have a pure "access" charge with no usage included. Very low users will save even more under this system. In addition some of the public testimony suggested that including usage caused customer confusion.

Q. 4. Some business customers spokespersons opposed LMS. However, the majority supported LMS because of its "fairness" and because comparative bills showed that the majority of businesses would save. Most did not indicate that the cap was essential to this support.

Under the plan as originally filed all PBX customers would have experienced a rate reduction. This was recognized as a problem in the Commission's December 2 order and was eliminated in the December 20, 1985 order that settled the rate case.

Q. 5. We are not sure that all five studies addressed this point. However, we know of no one in Maine who supported measured service in the past and opposes the current plan. We know of many people - the Public Advocate being the most prominent - who opposed or were uncertain about the earlier plan but support the current one.

Q. 6. Approximately 7% of the customers in Portland have opted for measured service. The Colorado situation is unique in that Colorado currently has a very low monthly rate and a very large "free" calling area serving a large percentage of its population.

Q. 7&8 The Commission never actively supports legislated rate design, but we will not oppose reasonable legislation requiring a cap or a flat rate option.

Q. 9. The marginal cost of interexchange calling is greater than marginal cost of intraexchange calling but there are still significant traffic sensitive costs associated with local area switching.

Q. 10. This option cannot sensibly be mixed with LMS until we have some experience with actual customer response.

Q. 11. See question 7.

Q. 12. This question cannot be answered with confidence until we have some experience with the current program.

Q. 13. A detailed survey has not been made, however most other states with which we are familiar do not have a cap.

Q. 15. The Commission believes that the rate differential is not so large as to produce any inequity, because it will be very small in relation to the total operating expenses of most businesses. Sixty-one percent of all businesses in NET territory will be covered by the end of 1987. Most of the rest will be covered within the following five years.

Q. 17. Several public witnesses testified to the effect that Opt. B made LMS more palatable; however, they still opposed the LMS concept in general. We will not have a reliable indication of the response of these individuals until people make their choices among options. Groups purporting to speak for them did not join in the Stipulation even after Option B was included.

Q. 18. Yes, especially since the current federal budget problems make federal assistance unlikely.

Q. 19. The Commission is not aware of any formal studies to determine the impact of LMS on volunteers. Several witnesses testified that they were also not aware of any such studies. Vermont regulators have told us that they have received no complaints from volunteer organizations.

Q. 20. If LMS rates are cost based, the removal of the cap is always cost justified. Whether this would drive a WATS reseller out of business depends on the differential between WATS rates and toll rates, not the existence of a cap.

Q. 21. We have no specific estimate. The Perl Study cited earlier would suggest that the number is significant. Of course, universal service is promoted by enabling customers to stay on the system as well as by adding new customers.

Q. 23. Yes. See the December 16 answer to Question 21.

Q. 24. Properly priced local measured service will not cause by-pass. In addition, switching from Centrex to PBX service will not allow the customer to experience significant cost savings.

Q. 25. This material was supplied to the Committee at the last public hearing.

Q. 27. If rates were set to precisely match costs, there would be separate set up and per minute charges. The average on peak call would cost more than 6¢ and the average off peak call would cost less than 3¢. The 2¢, 1¢ per minute rates without set up charges were established to track costs while being simple to understand and compute.

Q. 28. Average traffic sensitive costs are in the two to three cents per minute range. Marginal cost estimates have been 10¢ or more.

Q. 29. The "¢" sign should read "$" sign.

Q. 30. $2.97 million dollars refers to the cost on a statewide basis. In the eight LMS areas there are approximately 20.8 million local calls made per month. Average duration of a business call is 2.0 minutes. Average duration of a residential call is 4.0 minutes. The total average duration of a call is 3.3 minutes.

Q. 31. Yes.

Q. 32. The cost per minute for toll calls in the 10 mile band is approximately 11¢ for set up and 3¢ per minute and 4¢ per minute beyond the 86 miles.

Q. 33 Because it was established long ago there is no separate EAS surcharge for the Augusta-Gardiner EAS route. More recent EAS routes include a surcharge to reflect the added costs.

Q. 35. The WATS access charge is $50/month.

Q. 36. The $250,000 is a system-wide number. It is a fair estimate if a 20% drop in peak traffic occurs in Maine.

Q. 38. LMS is being extended throughout Illinois.

Q. 39. The 5% peak reduction necessary to offset measuring costs is based on NET's updated estimates of measuring costs. The updated data has not been thoroughly reviewed, but it appears the correct figure is less than the 12% originally used in the Commission decision.

Q. 42. NET has approximately 360,000 residential customers. The number of low income installations is approximately 10,000 not 5,000.

Q. 47. Detailed demographic data is not available because of mismatches between exchange and political boundaries.

Q. 49. Yes.

Q. 50. The rate case is now over, but the docket remains open for further cost study work.

Q. 52. It is not clear whether the FCC's access charge is beneficial to Maine's customers. The PUC has opposed implementation of the FCC's access charge in the form originally proposed.

Q. 53. At this time, we don't know. Depending on the level of the cost to be collected through toll rates, a toll access charge is one vehicle to prevent by-pass.

APPENDIX C

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

December 2, 1985

Docket No. 83-179

NEW ENGLAND TELEPHONE AND
TELEGRAPH COMPANY
Re: Consideration of Local
Measured Service and Alternative
Exchange Service Options

ORDER

BRADFORD, Chairman; HARRINGTON and MOSKOVITZ, Commissioners

On November 13, 1984, we ordered New England Telephone Company (NET) to implement local measured service (LMS) beginning on July 1, 1985, in areas of its service territory served by electronically switched offices. By Procedural Order dated June 18, 1985, the introduction of LMS was postponed until February 15, 1986, so that additional hearings could be held to investigate further the implementation and operation of local measured service.

Public hearings were held during the month of September in Kittery, Portland, Lewiston, Waterville, Bangor, and Presque Isle for the purpose of receiving testimony from public witnesses on local measured service. During these hearing sessions, a total of 124 persons presented testimony. More witnesses opposed the 1984 LMS plan than favored it, but many of the opponents indicated that changes along the lines of those adopted in this Order would make LMS acceptable to them.

During the week of October 7th, hearings were scheduled to be held in Augusta to give the parties an opportunity to cross-examine one another's witnesses on their pre-filed testimony. On October 2, 1985, the Hearing Examiner was advised that NET, the Commission Staff, and the Public Advocate were involved in settlement negotiations. The start of hearings was delayed until October 9, 1985, to allow these negotiations to continue.

At the hearing on October 9th, the Public Advocate called as its witness Joel Shifman who presented, as PUC Exhibit 61, a Stipulation signed by the Company, the Public Advocate, and the Public Utilities Commission Staff. (Attachment A). The signatories entered into the Stipulation "for the purposes of settling all issues in this docket relating to the rate structure to be utilized in the implementation of the measured service program." The

parties were given the opportunity to cross-examine Mr. Shifman as well as Michael McCluskey, the Company's witness.

The Stipulation presents an optional measured service plan for residential customers. In summary, the Stipulation proposes that affected residential customers be given a choice of three options:

Option A: A $6.00 monthly charge, with all local calls billed at 2 cents per minute between 9:00 a.m. and 9:00 p.m. on weekdays, 1 cent per minute at all other times. The maximum bill for a customer choosing Option A is $1.00 more than the flat rate under Option C.

Option B: An $8.00 monthly charge, with calls between 9:00 a.m. and noon and 2:00 p.m. and 7:30 p.m. billed at 2 cents per minute on weekdays, no charge for calls made at other times. The maximum bill for a customer choosing Option B is $1.00 more than the maximum rate under Option C.

Option C: A flat monthly charge of $15.30 in Waterville and Presque Isle, $15.95 in Lewiston, Auburn, Augusta, Bangor, Kittery, and Eliot, and $16.70 in Portland for unlimited and unmeasured local calling at no charge.

The local measured service plan previously approved by the Commission will apply to business customers. Attachment 2 of the Stipulation shows these charges.

A further hearing on the Stipulation was held on October 10, 1985. Mr. Shifman and Mr. McCluskey again submitted to cross-examination, and Stuart Ferguson and David Clough presented the views of the Maine Committee on Aging and the National Federation of Independent Business (NFIB/Maine), respectively.

By Procedural Order dated October 10, 1985, all parties were given until October 18, 1985 to present their views on the proposed Stipulation. Letters were received from the NFIB/Maine, the Maine People's Alliance (MPA), the Maine Association of Interdependent Neighborhoods (M.A.I.N.), and the Maine Committee on Aging. All expressed opposition to acceptance of the Stipulation.

The Commission held four further public witness hearings on the proposed Stipulation. These hearings were held in Kittery, Portland, Lewiston, and Bangor. Notice of these hearings was given in newspapers of general circulation, and the Commission attempted to send a copy of the Stipulation, and notice of the hearings, to all those who appeared as witnesses in the series of hearings held during September across the State. A total of 17 public witnesses appeared.

Paragraph 14 of the Stipulation stated that it would become null and void unless approved by the Commission on or before November 10, 1985. The signatories subsequently agreed to extend this expiration date to November 15, 1985.

The Commission held a further short hearing on the Stipulation on November 14, 1985.

The Stipulation is approved subject to following conditions:

1) The cap in Option A will be reduced by $1.00;

2) By February 15, 1986, the Company will file a tariff designed to reduce its rates for switching from one option to another;

3) Within 30 days of the date of this Order, the parties will form a task force to create a plan for studying data generated by the implementation of local measured service, and will report to the Commission what that plan entails.

These conditions were accepted by the parties to the Stipulation.

It is the intent of the Commission and the parties that the measured service plan framework approved herein shall remain in effect, without fundamental modification, for two years. However, the Commission cannot abrogate its regulatory responsibility, and, if good cause arises, it will be required to revise the plan. One area of particular concern is the treatment of PBX business customers, where a raising of the cap may well be in order.

Approval of the optional measured service plan agreed upon by the Public Advocate, the Staff, and NET will allow residential customers in the affected exchanges to choose between unmeasured flat rate service and two different measured service plans. Those who make no choice will be assigned to Option A because they cannot be economically worse off on Option A than on the flat rate. In addition all customers may shift their choice once without charge during the first six months LMS is in effect. The Commission expects NET and relevant state agencies will make major efforts to give the customers information necessary to enable them to choose the service that will be least expensive for them. For residential customers, the comparative bills issued in 1985 describing the original LMS program are not strictly applicable to the program approved today. However, any customer who did not reach the cap under the billing comparisons will be economically better off under at least one of the measured options in the new program than under the unmeasured flat rate service.

While a majority of the public witnesses at the hearings in September and October indicated opposition to measured service, much of their testimony focused on the mandatory nature of the program that the Stipulation replaces. Since measured service will be optional rather than mandatory, it is reasonable to infer that this objection to measured service has been removed. Furthermore, the addition of Option B's zero cost during expanded off peak periods will address many of the concerns regarding the need for some free calling at convenient hours, and the fact that Option C is unmeasured will

satisfy the concerns of those customers who object to being measured for whatever reason.

Other important features of the original LMS program remain true of this one. For example,

1) Well over half of all customers can save money by choosing LMS compared to the existing mandatory flat rate system. Indeed, Option B increases the potential number of benefitted customers.

2) The measured residential options have a fixed ceiling that prevents increases of more than $5 above the current flat rate in any customer's monthly bill, no matter how many calls he or she makes. A cap of this type or an equivalent flat rate option will remain part of the residential rate.

3) The Company's earnings remain regulated, so excess earnings will not be permitted.

4) Incoming calls are free.

5) All technical testimony continues to indicate a cost of on-peak local calls of at least 2 cents per minute. Therefore, this program is inevitably fairer than the existing mandatory flat rate with free local calling at all hours. Under the existing program heavy peaktime local callers are clearly being subsidized by all other consumers.

6) No testimony establishes the existence of any reduction in volunteer or charitable calling in any of the states or cities in which LMS has been adopted.

7) LMS will not be extended without further hearings as to its reasonablness for each exchange where it is proposed.

M.A.I.N. and the Maine People's Alliance submitted extensive and thorough comments in opposition to the Stipulation. A summary of these comments, and our responses to them, follows:

1) The benefits of measurement have not been shown to outweigh the costs. This issue is discussed at some length in our November 13, 1984 Order. For the reasons set forth at that time, we expect that the savings will outweigh the costs. The only way to develop conclusive evidence on customer response to LMS pricing is to go forward with the program.

2) Peaks are incorrectly defined. It is possible that experience will allow for broader off-peak periods, but the record is clear as to the need to avoid creating new peaks. There is no dispute that the LMS program we now approve more accurately reflects peak calling costs than the existing system.

3) PBX customers receive unjustified rate reduction. This concern may well be valid. If so, the program will be modified.

4) The Stipulation entails a 35% increase in the cost of flat rate service. This is true, but many customers will no longer be flat rate customers. The overall percentage increase to the residential and business classes is zero. Most customers receive reductions. The customers who get the 35% increase, if customers select the option most beneficial to them, will be 1) those whose heavy peak time calling means that they have been subsidized by all other callers or 2) those to whom the avoidance of measurement is worth the extra cost.

5) Customers who do not opt should be left on the flat rate. All customers who indicate no preference are assigned to Option A. Because the cap under Option A is the same as the flat rate under Option C, customers assigned to Option A will never be worse off economically. If they really want the flat rate, the process of choosing it is easy and free. We see no benefit to allocating customers to an option on which most will lose money.

6) Customers should be allowed one free change of option for two years. The program allows a free change for six months, and NET is to file a reduced rate for changes after that time. Six months' actual experience with measured service coupled with the dual billing information provided to date should permit informed choice.

7) The need for continuing revenue review. M.A.I.N. and Maine People's Alliance expressed concern that with measured service the Company will over time generate more revenue than approved by the Commission. Their concern evidences a misconception of the test-year method of setting rates. The allowed revenues approved by the Commission reflect the revenues the Company would have been entitled to receive in an historic test-year period adjusted for known changes. Prices or rates are then set by dividing the revenue requirements by the adjusted test-year level of sales. Once the prices are set any utility experiencing growth in sales will recover more revenues in the future than calculated in the historic test year. Increased sales also produce increased costs. As long as the increased revenues do not exceed the increased costs, excess earnings cannot occur. Since the increased costs of peaktime calling are above 2 cents per minute, excessive earnings will not occur.

The reconciliation contained in the Stipulation reflects the fact that there is no historic period to use as a basis for establishing the precise level of rates. The reconcilation therefore allows for a one time adjustment to rates in the event that customer choices among Options A, B, and C differ significantly from those assumed in the approved rates. Once this problem is cured there should be no further need for additional changes. If there is, we retain the power to make the necessary adjustments.

8) The flat rate will be $20 by the end of the rate case. This remains to be proven, but the problem would be even more acute if the reduced cost measured service options were not available to those who need them.

9) Local reverse billing will be unaffordable. This issue must await the filing of a tariff, but the need for the service should be reduced by Option B's free 12-2 p.m. calling period.

10) Potential redesign of tariffs should should be a two-way street working to benefit customers as well as to protect NET. We agree and if experience shows that the off-peak period can be expanded, it will be expanded.

11) The data is incomplete. It is true that this rate, like any other, can be improved with experience and research. However, the data is fully adequate to establish beyond doubt that this program more accurately recovers costs from those who cause them than does the mandatory flat rate system.

12) The February 15 deadline is premature and forecloses legislative action. This date was acceptable to the Utilities Committee of the Legislature. Four years of consideration of LMS is hardly "an unseemly rush to judgement." Furthermore, this decision is not inconsistent with the initiated provision until 25% of the eligible customers choose a measured option.

NFIB/Maine indicated its official position is that it is opposed to local measured service and to the Stipulation, apparently because businesses are subject to mandatory measured service, while residential customers will have optional measured service. We note that during the public witness hearings many business representatives, including various Chambers of Commerce, expressed satisfaction with the Commission's local measured service plan, and the underlying premise of paying for what you use. Data collected thus far shows that 68% of business customers would save money on a measured service plan.

The Maine Committee on Aging submitted comments to the effect that the data was inadequate, the off-peak period too narrow, the costs too high, and the effect on volunteering too great. Those points have been addressed either in the foregoing order or in the discussion of similar points in the M.A.I.N. and MPA submissions.

Accordingly, it is

O R D E R E D

That the Stipulation filed on October 9, 1985, is hereby approved, subject to the conditions listed in this Order.

Dated at Augusta, Maine, this 2nd day of December, 1985.

BY ORDER OF THE COMMISSION

Charles A. Jacobs
Charles A. Jacobs
Administrative Director

A true copy.
Attest: Charles A. Jacobs
Charles A. Jacobs
Administrative Director

COMMISSIONERS VOTING FOR: Bradford
Moskovitz

COMMISSIONER CONCURRING: Harrington

Commissioner Harrington, concurring:

I am afraid that the Stipulation goes beyond solving the problems associated with the Commission's original plan and causes new complexities where fewer are needed. Its good new ideas such as multiple options should be adopted, but later. The public first needs a chance to get used to measured service.

I would modify the existing local measured service plan, which I believe to be basically sound, somewhat differently from the Stipulation. The suggestions made to us during recent public hearings such as retaining a flat rate for those who want it and having free off-peak calling for those hours where cost is almost nothing are incorporated into the new plan. But, rather than change the original measured rate and offer a second measured rate plus a flat rate, I would offer a single measured rate and a flat rate, keeping the measured rate fairly close to the original plan so as to allow customers to apply what they learned during the one year of comparable billing as directly as possible. Specifically, I would have retained the same minimum charge and included usage.

I also have some concern with the zero cost pricing of the 12 noon to 2 p.m. off-peak hours for those who choose Option B under the stipulation. My fear is that a new midday peak may occur due to the attractiveness of Option B. The calls made in those hours have a higher probability of not being zero cost because the likelihood of creating a new peak at those hours of the day is much greater than, for example, allowing zero cost calling at 10 o'clock in the evening. I would have preferred to offer a reduced price calling period from 12 noon to 2 p.m. or even 3 p.m. of perhaps 1 cent or 1/2 cent and waited to see what happened to the demand during those hours over the two-year period the stipulation is in effect. However, in spite of my concerns, because measured service as offered under the Stipulation is still a great improvement over flat-rate only pricing, I will not vote against its implementation.

Review of this Order by the Commission may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of this Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

Review by the Law Court may be requested by filing, within 30 days of the date of this Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35 M.R.S.A. Sec. 303, and the Maine Rules of Civil Procedure, Rule 73 et seq.

Additional court review of constitutional issues or issues involving rates may be had by filing a complaint with the Clerk of the Law Court and with the Administrative Director of the Commission, both within 30 days of the date of this Order, pursuant to 35 M.R.S.A. Sec. 305.

APPENDIX D

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

December 20, 1985
Docket #83-179

New England Telephone and Telegraph Co.

Re: Consideration of Local Measured Service (Phase II)

Request for Reconsideration By M.A.I.N.

M.A.I.N. moves that the Commission reconsider its order of December 2, 1985 in this case, pursuant to Commission Rule 6(N). In addition to the grounds of M.A.I.N.'s opposition to the proposed stipulation submitted in our comments of October 18, 1985, we wish to draw attention to and seek reconsideration of the following issues in the Commission's order of December 2. The first four issues go to the order itself, issue 5 relates to a request for a stay, and issue 6 relates to the method of implementing the order.

1) The Commission's order does contain findings of fact to support the conclusion that the expected savings due to local measured service will occur, and will exceed the costs.

The Commission's order of December 2, 1985 refers us back to the order of November 13, 1984. "For the reasons set forth at that time, we expect the savings will outweigh the costs." The Commission's order of November 13, 1984 addresses four paragraphs to this question: (1) the assumption that NET's estimate of repressed calling volume of 20% was accurate; (2) the assumption that even if repression was not that high, it would be "significant"; and (3) the assumption that a 1% reduction of peak-time calling will yield a $250,000 annual saving. Neither of the Commission's orders cite specific data in the record supporting these assumptions. We have been unable to find such data in the record, and respectfully request the Commission to identify the specific evidence supporting these findings, as required by the A.P.A. 5 M.R.S.A. §9061. Gashgai v. Board of Medicine, 390 A.2d 1080; P.U.C. v. Cole's Express (1958), 153 Me. 487, 138 A.2d 466. The Company's estimate of 20% total calling reduction is based on the Beauvais study which contained estimates of repression in the GTE experience, not actual historical data. The Rand studies of the actual historical GTE experience in Illinois was cited in Mr. Shifman's testimony as showing only 5.9% repression of total residential usage. Neither the Rand nor the Beauvais studies offer any evidence of actual historical savings which could be traced to the rediced usages. Even theoretically a repression of total usage, or usage within a rate-period defined as "peak", would not necessarily result in any savings. Only repression at the actual times of full equipment capacity would yield any actual capital savings. Both Mr. Shifman and Mr. McCloskey testified that they did not expect any significant repression of business usage and Mr. Shifman testified that there was not significant repression after measurement in West Virginia. Given this evidence, the Commission's assumption of 20% repressed usage and

annual system savings of up to $2 million are without foundation.

2) The Commission order does not meet the objections of the overwhelming public testimony because it does not provide a meaningful "choice".

The Commission suggests that the ordered plan has "removed" the opposition based on the mandatory nature of the program since the ordered plan will be "optional". That was a virtue of the original stipulation that has not been retained in the Commission's order. The present "Option A" is essentially the same service terms provided in the original Commission mandatory plan. Under "Option C" of the Commission's present order, a customer would be charged the same as if they "chose" "Option A" and reached the "cap". The "choice" being offered may be translated as the choice of some price up to $16.70 (in Portland) or $16.70. This cannot be described as a true choice. Under the stipulated plan, customers were presented with the realistic possibility that under measurement a customer could pay more than the flat rate. If a majority of customers had chosen the flat rate, the "true-up" adjustment after four months would have reduced the flat rate even further. Such a plan did go part way to meet the public sentiment expressed at the public hearings. Under the Commission's order, however, customers are given no scenario under which the flat "option" is rational. Rational individuals will therefore be compelled to accept the "choice" the Commission had previously presented as "mandatory". The only true choice is between fully measured local service and partially measured local service.

3) The Commission's order offers a "choice" which is not a fair or true "choice".

To describe this scheme as "optional" measured service, seems a misrepresentation. title 10, Section 1212 defines a "deceptive trade practice" as an action in the course of a business which "represents that goods or services are of a particular standard quality or grade, or that goods are of a particular style or model, if they are of another" or "makes false or misleading statements of fact concerning the reasons for, existence of or amounts of, price reductions" or "any other conduct which similarly creates a likelihood of confusion or of misunderstanding." The Commission's "optional measured service plan" orders the Company to offer something as optional when it is not. The fact is that every customer in these exchanges will have their usage measured and every customer will pay rates based on that usage up to a cap. the only choices are to have partially unmeasured off-peak service (Option B), or to pay the cap even if one's usage is less. One cannot choose to pay a flat rate which will be unaffected by higher or lower usage,

but only to be treated as a high user, i.e. billed at the cap. The fact that that deceptive trade practices act does not apply to conduct in compliance with the orders of a state agency does not make the underlying conduct and order less problematic on grounds of public policy.

4. The Commission's retention of a rate reduction for PBX customers is without basis.

The order acknowledges this fact, but fails to take the necessary corrective action. The order therefore provides a preferential rate unsupported by any evidence.

5. The Commission's order should be stayed pending the outcome of the pending initiative referendum to preserve flat rate service and to limit measured service to an option chosen by no more than 25% of eligible residential customers.

The Consitution of Maine, Article IV, Part Third, Section 17 provides that when 10% of the electors petition "requesting that one or more Acts, bills, resolves or resolutions, or part or parts thereof, passed by the Legislature but not then in effect by reason of the provisions of the preceding section, be referred to the people, such Acts, bills, resolves, or resolutions or part or parts thereof as are specified in such petition shall not take effect until 30 days after the Governor shall have announced by public proclamation that the same have been ratified by a majority of the electors voting thereon at a statewide election. . ." The effect of any Act, bill, resolve or resolution, or part or parts thereof as are specified in such petition shall be suspended upon the filing of such a petition . . . "

It may be argued that the Commission's order is not an act of the Legislature and therefore is not subject to the stay required by the quoted section. However, the Commission's order is an Act pursuant to legislative power delegated to the Commission by the Legislature. Again, as a matter of public policy it seems unreasonable that the Legislature's own actions must be stayed upon presentation of the requisite number of petitions but the Legislature's agency's actions cannot be stayed. The Commission's argument that its order is not inconsistent with the initiated provision is disingenuous when the testimony on the record is that the stipulated plan was designed to be revenue neutral based on 25% of the customers remaining on flat service and the Commission's ordered changes make it less likely that customers will "choose" flat service since it no longer offers any difference from the cap.

6. The draft letter and "ballot" prepared by NET unfairly and unnecessarily prejudice the issue, and do not provide the greatest possible exercise of what "choice" does exist in the ordered plan.

NET has circulated among the parties a draft mailing and a "ballot" to inform customers how to select among the ordered

service plans. We have participated in a meeting of the parties to comment on this draft, but some of the defects we complained of are required by the order. i) Assignment of a customer to a particular service plan upon default is gneerally regarded as an unfair marketing technique. For example, P.A. Request #1, item 13 "as you know in Maine the business reply cards which customers send back to you during the trial are not allowed to give customers a NEGATIVE option. If you do not want the services . . ." When it must be employed, the generally accepted preferable course is to have the default result in maintenance of the status quo. In the current situation the so-called "option C" is the closest service plan to the status quo, and should be that which defaulting customers are assigned.

ii) Even if the Commission continues to order defaulting customers be assigned to "Option A," the order should not require the company to inform customers of that fact in the first mailing. To get the best possible attention by customers to select a service plan, all customers should be encouraged to return a service order whichever plan they select. The second mailing could then include the information of how defaulting customers will be assigned. To include this information in the first mailing and/or on the order form itself unnecessairly discourages customers from affirmatively weighing the plans and making a conscious selection. Neither the Commission nor the Company nor any other party has any interest in that discouragement and so should alter the stipulation and the order to request all customers to return a service order and to inform customers of the assignment upon default only in the second mailing. To emphasize the importance of selection, the return card should be called a service order, not a ballot.

iii) The Commission should direct the Company to describe the three service plans as succinctly and factually as possible, without any prejudicial references such as "if you'd like to control the amount of money you spend for phone service" or to "local reverse billing" which suggests that measurement will not cause costs.

Wherefore, we request the Commission to reconsider and revise the order of December 2 in accord with this petition.

Respectfully submitted,

Christopher St. John
for M.A.I.N.

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 83-179

January 13, 1986

NEW ENGLAND TELEPHONE
AND TELEGRAPH COMPANY
Re: Consideration of Local
Measured Service and Alternative
Exchange Service Options

ORDER DENYING PETITION
FOR RECONSIDERATION

BRADFORD, Chairman; HARRINGTON and MOSKOVITZ, Commissioners

On December 20, 1985, the Maine Association of Interdependent Neighborhoods (M.A.I.N.) petitioned this Commission to reconsider the Order of December 2, 1985, in which we approved a Stipulation on the local measured service program. We have considered the issues raised in M.A.I.N.'s petition and find none of them warrants amendment of our December 2 order.*

The issues raised by the petitioner, and our responses thereto are as follows:

1) The Commission's order does [not] contain findings of fact to support the conclusion that the expected savings due to local measured service will occur, and will exceed the costs.

The record in this docket shows that in areas served by electronic offices, the cost of measuring local phone calls will range from about .5¢ to .65¢ per call. The expected reduction of peak-time calling will result in savings which will more than offset the cost of measurement.

In addition there are other benefits to be derived from measuring. Telephone service becomes more affordable for most people. Furthermore, as we explained in our November 13, 1984 Order, "charging higher rates for those customers whose calling pattens impose higher costs on the telephone system increases both the fairness and the economic efficiency of the system." This is because, even if no shifting in calling patterns occurs, the customers whose peak-time calling patterns drive up the cost of the system will pay their share of those costs.

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* Inasmuch as MAIN's petition was not granted within 20 days of its filing, on January 9, 1986 it was denied by operation of Chapter 11, §6(N) of the Commission's Rules of Practice and Procedure. We issue this order to enter on the record the reasons we expressed at our January 8, 1986 deliberative session when we voted to deny the petition.

2) The Commission order does not meet the objections of the overwhelming public testimony because it does not provide a meaningful "choice."

M.A.I.N. asserts that because the cap on Option A is equal to the flat rate option, "customers are given no scenario under which the flat rate 'option' is rational." The flat rate option was provided to meet the needs of those public witnesses who objected to the concept of measurement of local calls per se. Those persons who testified that they feel uncomfortable with having a "clock ticking" while making local calls or who do not desire for whatever reason to have a record made of their local calls can choose this unmeasured option. If the testimony on this point was representative of real public concern, then a significant number of customers will choose Option C.

The cap on Option A is set equal to the flat rate option to protect those consumers who fail to return their ballots selecting any option. Placement of these non-electing customers on Option A will allow them to save money if they are light telephone users, but not lose money if they are heavy peak-time users. In addition, it make no sense to allow heavy users to enjoy a subsidy from all other customers by choosing the flat rate instead of a measured option with a higher cap.

In short, the measured service plan clearly provides a meaningful choice. Light users of the system, choosing Option A, can have monthly bills as low as $6.70, while heavy users may pay as much as $19.00. Thus, customers, by choosing the timing and duration of their local calling, will have control over their bills in a way not possible under a mandatory flat rate system.

3) The Commission's order offers a "choice" which is not a fair or true "choice."

M.A.I.N.'s contention here has been fully addressed under 2) above. We only reemphasize that Option C, the flat rate option, is an unmeasured service, and therefore M.A.I.N. is clearly incorrect in contending "one cannot choose to pay a flat rate which will be unaffected by higher or lower usage ... ."

4) The Commission's retention of a rate reduction for PBX customers is without basis.

This concern was addressed in our December 20, 1985 Order in Docket No. 85-159. On page 7 of that Order we stated:

> The Company should file tariffs which charge measured PBX and other measured business customers the

same basic monthly fee but with different caps. The level of the caps should be set so that measured PBX and other measured business customers will experience the same percentage increase in their local exchange rates, including usage charges.

5) The Commission's Order should be stayed pending the outcome of the pending initiative referendum to preserve flat rate service and to limit measured service to an option chosen by no more than 25% of eligible residential customers.

M.A.I.N.'s argument is that Article IV, Part Third, Section 17 of the Maine Constitution should be interpreted to require the stay of this Commission's LMS Order until after the "pending" initiative referendum to ban mandatory measured service is voted on. We disagree that any such stay is required in these circumstances.

First, the above-mentioned Section 17 providing for a stay of legislative acts, resolves, or resolutions while a referendum is pending refers only to acts not yet in effect because of the delay provision described in Section 16. Specifically, Section 16 provides that legislative enactments do not become effective until 90 days after the recess of the session of the Legislature in which they were passed. If, in this interim, the requisite petition is filed, the act is suspended until after the vote is taken. In contrast to this delay of the effective date of legislative actions, orders of the Public Utilities Commission become effective immediately, or upon a date specified in the order itself. There is no analogous automatic "lag time" as Section 16 provides for legislative actions.

Second, even if PUC orders were viewed as analogous to legislative acts, resolves, or resolutions, and some kind of 90-day delay were imposed before the Orders became effective (and a referendum petition filed within that period further stayed the effective date), far longer than 90 days has passed since this Commission first ordered local measured service to be implemented. The implementation of LMS was first ordered on November 13, 1984, to go into effect on July 1, 1985. The effective date was subsequently postponed to February 15, 1986, where it still stands. Our Order of December 2, 1985, merely approved a modification of the original LMS plan.

Third, as of this date there has been no petition containing the requisite number of signatures filed with the office of the Secretary of State. Therefore, even if what is being contested were an act, resolve, or resolution of the Legislature, Section 17 would not yet operate to stay the effective date. Moreover, even if the requisite number of signatures are filed, the approved LMS program may not be barred by the bill.

Fourth, the Law Court has decided that when the Legislature is not "performing the usual function of [a] legislative assembly," but instead is exercising "powers somewhat akin to those of a judicial tribunal," the 90-day delay provided in Section 16 does not apply. Moulton v. Scully, 111 Me. 428, 447, 89 A. 944, 958 (1914). If the delay mechanism of Section 16, which exists only to allow time for petitions to be filed under Section 17, does not apply to quasi-judicial actions of the Legislature, then adjudicative functions of the PUC cannot be subject to the mechanism.

Finally, a stay is unreasonable for reasons of fairness as well. Under the present system, most people pay more than they need to in order to subsidize the minority of heavy peak-time telephone users. Implementation of the program already has been postponed twice for six month periods to allow the public to become familiar with the concept of measured service. At this point, the clear unfairness of the present system demands that it not be permitted to continue.

6) The draft letter and "ballot" prepared by NET unfairly and unnecessarily prejudice the issue, and do not provide the greatest possible exercise of what "choice" does exist in the ordered plan.

(i) M.A.I.N. contends customers who do not send in ballots choosing an option should be assigned to Option C, rather than Option A. It is obviously more reasonable to assign those who make no choice to an option under which they are likely to pay less than the rate for unmeasured service, with no possibility that they will be worse off. If those assigned to Option A decide they would rather have a different option, they will have six months in which to make a change at no cost.

(ii) M.A.I.N. argues that customers should not be told, on the first mailing, that non-choosers will be assigned to Option A. We disagree with M.A.I.N.'s contention that if people are told they will be assigned to Option A if they do not choose, they will not carefully scrutinize the options. All three options are fully explained before the default provision is stated.

(iii) M.A.I.N. urges the Commission to direct the Company to describe the three options "as succinctly and factually as possible." The Commission Staff as well as the Public Advocate have reviewed the language to appear on the service orders, and we are satisfied that the three options will be fairly represented to customers.

Accordingly, it is

O R D E R E D

That M.A.I.N.'s Petition for Reconsideration is denied, for the reasons stated in the body of this Order.

Dated at Augusta, Maine, this 13th day of January, 1986.

BY ORDER OF THE COMMISSION

Charles A. Jacobs
Charles A. Jacobs
Administrative Director

A true copy.
Attest: Charles A. Jacobs
Administrative Director

COMMISSIONERS VOTING FOR: Bradford
Harrington
Moskovitz

Review by the Law Court may be requested by filing, within 30 days of the date of this Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35 M.R.S.A. Sec. 303, and the Maine Rules of Civil Procedure, Rule 73 et seq.

Additional court review of constitutional issues or issues involving rates may be had by filing a complaint with the Clerk of the Law Court and with the Administrative Director of the Commission, both within 30 days of the date of this Order, pursuant to 35 M.R.S.A. Sec. 305.

APPENDIX E

HELEN T. GINDER, DIRECTOR
HAVEN WHITESIDE, ASST. DIRECTOR
GILBERT W. BREWER
DAVID ELLIOTT
MARTHA FREEMAN
JERI B. GAUTSCHI
CHRISTOS GIANOPOULOS
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JULIE S. JONES
JOHN B. KNOX
EDWARD POTTER
MARGARET J. REINSCH
LARS RYDELL
JOHN SELSER
ANDREA COLNES, RES. ASST.

December 13, 1985

To: Joint Standing Committee on Utilities
From: Haven Whiteside, Legislative Assistant and Andrea Colnes, Research Assistant

Subj: Telephone Rates and Revenue

Attached are several charts, prepared by Andrea Colnes, showing the telephone rates and the revenue sources of the New England Telephone Company for recent years. We hope they will be helpful in understanding the economic trends in the telephone industry.

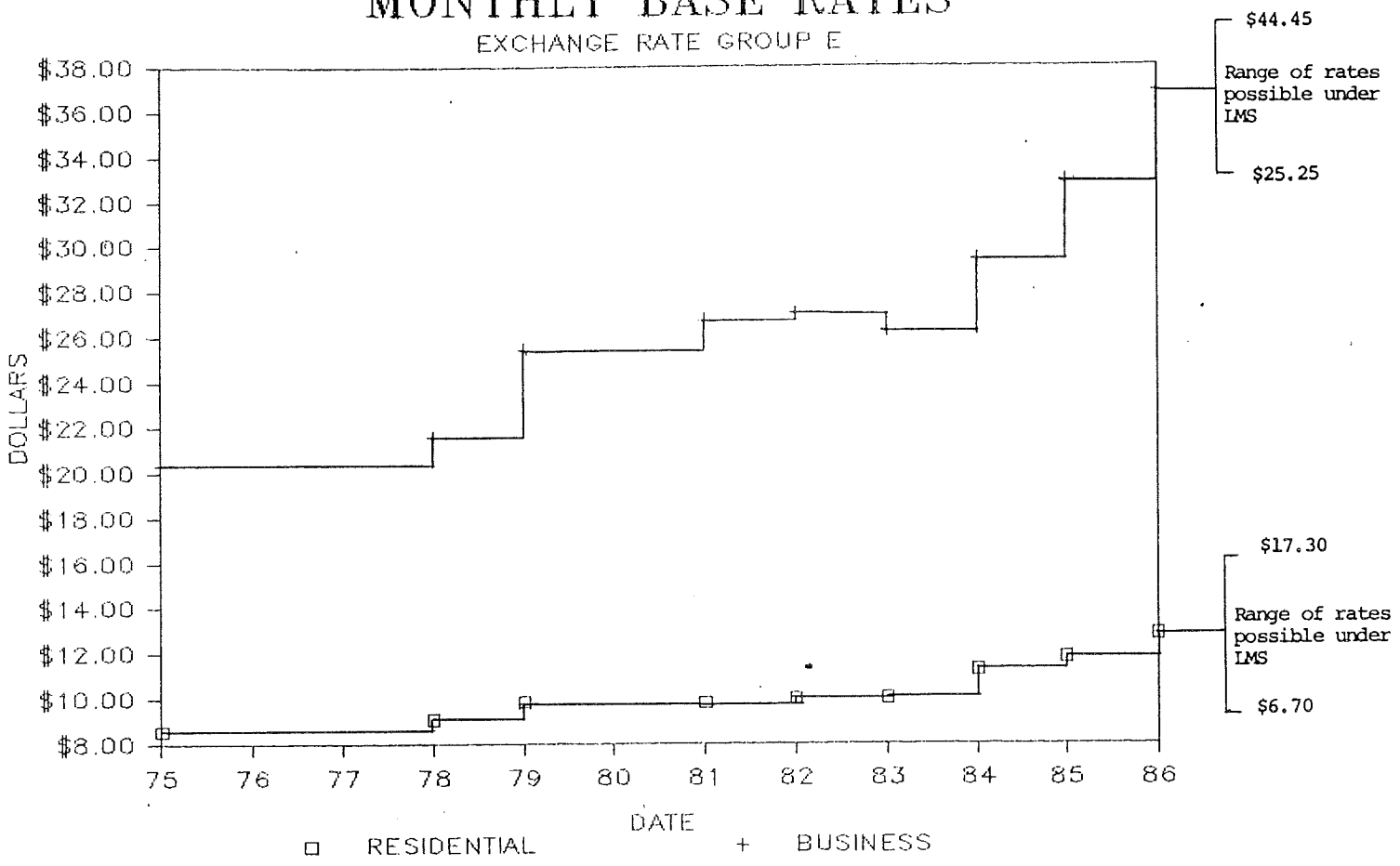
The graph on monthly base rates in Figure 1 is plotted from the actual rate filings in Table 1. Note that, although the years are plotted evenly, the actual month of the rate filing varies, as indicated. Note also that in 1981 there was a very brief 1-month rate change in April followed by another in May. Note from Table 1 that residential rates increased 38% in the in the 10 years 1975-1985 and business rates increased 62% over the same period. Also, rental of a telephone and access to the interstate network were included in base rates in the 1970's.. Now telephone rental is not included, and there is an additional $1/month charge for interstate access which is not included in the base rates shown.

Note that in 1984, as a result of the Bell system divestiture, toll revenues were split into interstate "access revenues" received from AT&T and (intrastate) toll revenues. The bar graph (Figure 2) shows that the total revenue percentage for toll and access in 1984 is the same as that for toll alone in 1983, and the data in Table 2 show that the actual total revenue from those sources declined slightly in 1984.

HW/elk/4351

MONTHLY BASE RATES

EXCHANGE RATE GROUP E



NOTES:

•SOURCE: New England Telephone & Telegraph Co.
Exchange and Network Services
Part A - Section 5

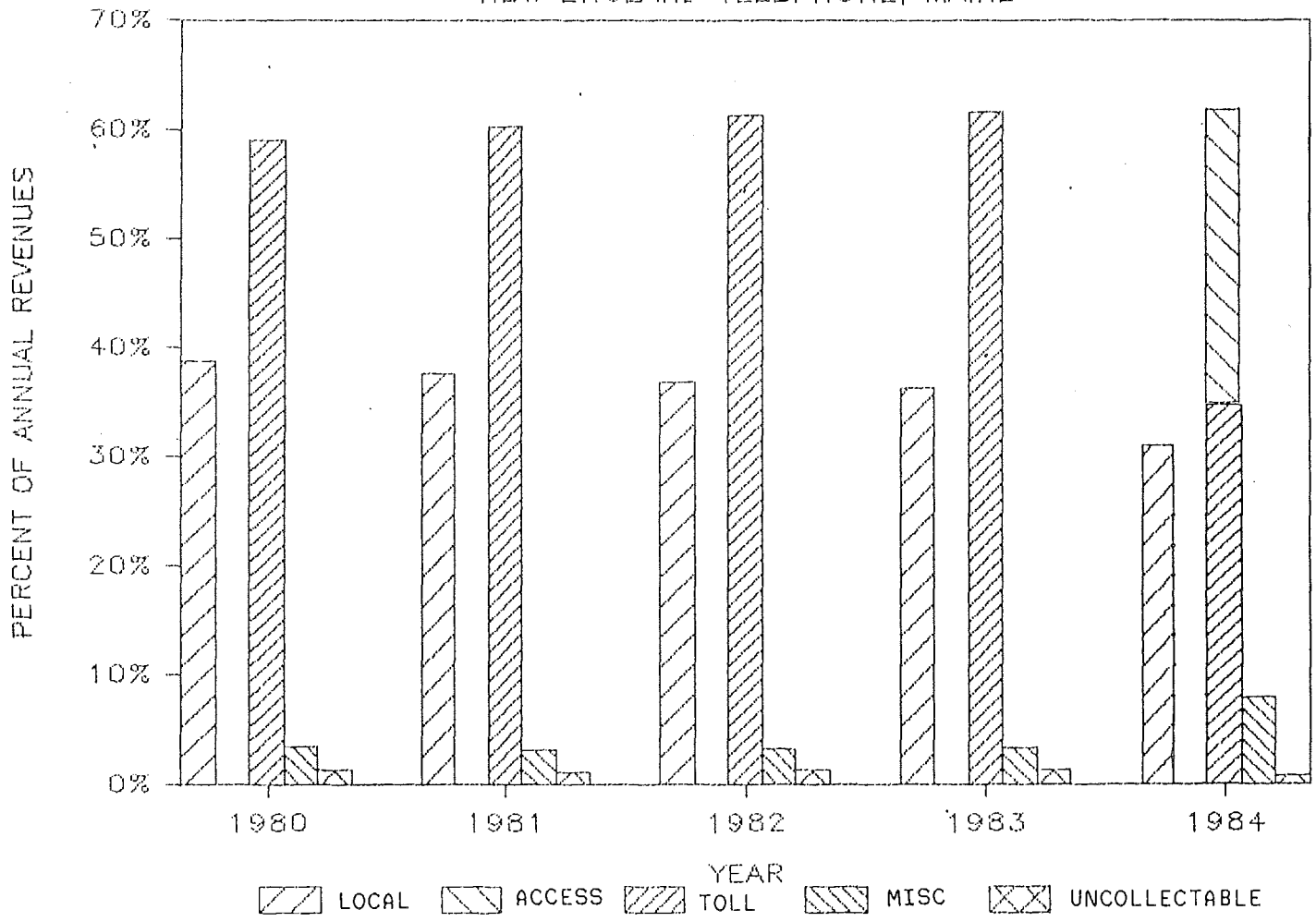
•DEFINITION EXCHANGE RATE GROUP E:
Local Service Areas with populations between 25,000 - 55,000. Examples include Augusta - Hallowell, Bangor, Brunswick

•Figures are in current dollars throughout

•As of mid-1985, an additional charge of $1/month was added to pay for access to the interstate network. (not included in figures above)

REVENUE SOURCES

NEW ENGLAND TELEPHONE; MAINE



•SOURCE: Annual Report of New England Telephone & Telegraph to the Public Utilities Commission of Maine. Annual Report Form M: 1980-1984.

MONTHLY BASE RATES (EXCHANG RATE GROUP E)

	RESIDENTIAL	PERCENT INCREASE	BUSINESS	PERCENT INCREASE
7/75	$8.55		$20.35	
8/78	$9.05	6%	$21.60	6%
7/79	$9.85	15%	$25.45	25%
4/81	$9.50	11%	$25.85	27%
5/81	$9.80	15%	$26.75	31%
10/82	$9.95	16%	$27.05	33%
10/83	$10.03	17%	$26.25	29%
6/84	$11.26	32%	$29.47	45%
1/85	$11.83	38%	$32.92	62%
6/85	$11.83	38%	$32.92	62%
10/85	$11.83	38%	$32.92	62%
2/86	$12.85	50%	$36.82	81%

OPERATING REVENUES 1980 - 1984 (TOTAL FIGURES ONLY)

	1980	1980	1981	1981	1982	1982	1983	1983	1984	1984
LOCAL SERVICE	86,850,029	39%	95,337,686	38%	100,173,559	37%	106,054.204	36%	87,524,530	31%
ACCES	NA	0%	NA	0%	NA	0%	NA	0%	76,281,877	27%
TOLL SERVICE	132,379,052	59%	152,591,183	60%	166,846,885	61%	180,023,021	62%	97,863,028	35%
MISC	7,647,624	3%	7,753,524	3%	8,544,566	3%	9,661,793	3%	22,173,814	8%
UNCOLLECTABLE	2,873,207	1%	2,657,192	1%	3,485,213	1%	3,706,865	1%	2,086,363	1%
TOTAL OPERATING	224,003,498	100%	253,025,203	100%	272,079,797	100%	292,032,153	100%	281,756,886	100%

APPENDIX F

HELEN T. GINDER, DIRECTOR
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ANDREA COLNES, RES. ASST.

MEMORANDUM

TO: Haven Whiteside
FROM: Andrea Colnes
DATE: January 22, 1986

SUBJ: Survey of Local Measured Service Programs in New England states.

°VERMONT:

Residential:
Mandatory measured service in Burlington (includes 20,000 of the 170,000 residential lines in the state). Measured service is optional throughout the remainder of the state where usage was estimated at about 3%-5% of residential customers.

Business:
Measured service is optional for business customers throughout the state; usage was estimated at about 50%.

Cap:
There is a cap on monthly charges for measured service of $27.50 ($10.00 more than the standard measured service rate plus the line charge).

°MASSACHUSSETS:

Residential:
Measured service is optional for residential customers throughout the state except in New Bedford where it is mandatory. Usage is estimated 4%-5%.

Business:
Measured service is mandatory for all business customers within an eight mile radius of Boston or who are located in an area with more than 150,000 lines in their primary calling area. An estimated 40%-60% of business customers use measured service throughout the state.

Cap:
There is no cap on the possible monthly billing for measured service

°RHODE ISLAND:

Residential:
Measured service is optional for residential customers throughout the state. Usage is estimated at 12%.

Business:
Measured service is mandatory for business customers throughout the state except in a few small rural communities where it is optional.

Cap:
There is a cap on monthly charges for measured service of $22.00.

°NEW HAMPSHIRE:

Residential:
Measured service is optional for residential customers throughout the state. Usage is estimated at approximately 15%.

Business:
Measured service is currently optional throughout the state and 35% of business customers have chosen to use it. As of July 1, 1986, measured service will be mandatory for all business customers.

Cap:
Currently there is no cap on monthly measured service billing.

°CONNECTICUT:

Residential:
Measured service is optional for residential customers throughout the state; current usage stands at 8%.

Business:
Measured service is optional for business customers throughout the state; current usage stands at 9%.

Cap:

There is no cap on the level of monthly billing for measured service.

°MAINE:

Residential:
As of February 15, 1986 Measured service is scheduled to be offered on an optional basis in certain areas of the state representing 20% of all customers. Measured Low Use Service has been available since 1976 in four areas of the state on an experimental basis as described below:

TOWN	DATE AVAILABLE	# CUSTOMERS W/ LMS OPTION	% USING LMS
Portland	2/78	22,602	12%
Rumford	10/76	4,320	4%
Millbridge	10/76	1,358	5%
S. Berwick	8/77	1,417	8%
State Total		29,697	8%

Business:
Measured service will be required in certain areas of the state which include 36% of all business customers.

Cap:
There will be a cap on residential billing of $17.30/month and a cap of $44.45/month for businesses.

4528M

USAGE SENSITIVE PRICING FOR LOCAL TELEPHONE SERVICE

From the 1984 Annual Report
on Utility and Carrier Regulation

By the National Association of
Regulatory Utility Commissioners

The following table was compiled from State commission responses to a questionaire regarding usage sensitive pricing for local telephone service.

Agency	(1) USP Instituted	(2) Optional or Non-Optional Basis	(4) USP Experimental Basis
ALABAMA PSC	Yes	Residence/Optional	No
ALASKA PUC	No		No
ALBERTA PUB	No		No
ARIZONA CC	Yes	Optional	No
ARKANSAS PSC	Yes	Optional	Yes
CALIFORNIA PUC	Yes	Business/Non-Optional Residence/Optional	No
CANADIAN RTC 11/	No		
COLORADO PUC	Yes	Optional	No
CONNECTICUT DPUC	Yes	Optional	No
DELAWARE PSC	Yes	Optional	No
D.C. PSC	Yes	Commercial/Non-Optional, Residence/Optional	No
FLORIDA PSC	Yes	Optional	Yes 4/
GEORGIA PSC	Yes	Optional	Yes
HAWAII PUC	No		No
IDAHO PUC	Yes	Optional	No
ILLINOIS CC	Yes	Optional	Yes
INDIANA PSC	Yes	Optional	Yes 7/
IOWA SCC	Yes 2/	Optional	Yes
KANSAS SCC	Yes	Residence/Optional	Yes
KENTUCKY PSC	Yes	Optional	No
LOUISIANA PSC	Yes	Optional	No
MAINE PUC	Yes	Non-Optional	No
MARYLAND PSC	Yes 28/	Business/Optional Residence/Optional	No No
MASSACHUSETTS DPU	Yes	Optional	Yes
MICHIGAN PSC	Yes	Business/Non-Optional Residence/Optional	No
MINNESOTA PUC	Yes	Optional	Yes 9/
MISSISSIPPI PSC	Yes	Optional	No
MISSOURI PSC	Yes	Optional	No
MONTANA PSC	No		No
NEBRASKA PSC	Yes	Optional	No
NEVADA PSC	Yes	Optional	Yes
NEW HAMPSHIRE PUC	Yes	Optional	No
NEW JERSEY BPU	Yes	Business/Non-Optional	No
NEW MEXICO SCC	Yes	Optional	No
NEW YORK PSC	Yes	Business/Non-Optional Residence/Optional	No
NORTH CAROLINA UC	Yes	Optional	Yes
NORTH DAKOTA PSC	Yes	Optional	No
NOVA SCOTIA PUB	No		No
OHIO PUC	Yes	Business/Non-Optional, 14/ Residence 14a/	No
OKLAHOMA CC	No		No
OREGON PUC	Yes	Optional Commercial/Non-Optional	No No
PENNSYLVANIA PUC	Yes	Optional for Residance	31/
RHODE ISLAND PUC	Yes	Optional	No
SOUTH CAROLINA PSC	Yes	Optional	No
SOUTH DAKOTA PUC	Yes	Optional	No
TENNESSEE PSC	Yes	Optional	No
TEXAS PUC	Yes	Optional	No
UTAH PSC	Yes	Optional	No
VERMONT PSB	Yes	Optional	Yes
VIRGINIA SCC	Yes	Business/Non-Optional in N. Va. Residence/Optional	No
WASHINGTON UTC	Yes	Optional	No
WEST VIRGINIA PSC	Yes	Optional	No
WISCONSIN PSC	Yes	Business/Non-Optional 22/ Residence/Optional	No
WYOMING PSC	Yes	Optional	

APPENDIX G
TELEPHONE RATE CALCULATIONS

1. How are telephone rates set?

• The PUC by law is required to set just and reasonable rates. The following steps are involved:

A. Determine the Total Revenue Requirement

–Determine the rate base ... the invested capital and assets on which the utility will be allowed to earn a rate of return.

–Determine the allowable rate of return based on financial market conditions, prudent ratio of debt to equity etc. The percentage rate of return multiplied by the rate base gives the amount of money the company is allowed to earn on its investment.

–Determine allowable expenses.

–The total revenue requirement is the allowed earnings on investment plus allowable expenses.

B. Allocate the total revenue requirement among various classes of service: long distance (intrastate), WATS, private line and basic exchange service.

–Determine specific costs due to each service.

–Allocate the common costs among these different service.*

–Allocate revenue requirements in proportion to the total of specific costs and common costs assigned to each service.

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*NOTE: In the past, in the absence of sufficient cost data, the PUC has used "residual pricing" which requires a contribution to common costs from each service and then requires basic exchange service to pick up the remainder. The effect is to divide up the common costs, but not in a way that is closely tied to a theory of cost sharing as a true allocation would be.

C. For basic exchange service, allocate the revenue requirement among the various users.

-Business vs. residential.

-Low users vs. high users (LMS).

2. What are the parts of a telephone network?

-interexchange network, including trunks and higher level switches

-customer premises equipment, for example a telephone..customers mostly own

-terminal equipment..telco ownership phasing out

-inside wiring...telco ownership phasing out

-local loop: a pair of copper wires from the protector outside the building to the first switch (e.g., central station)

-first switch

3. How are telephone system costs divided up?

- Nationally, the Ozark Plan is used:

  -Separate local plant into Traffic Sensitive (TS) and Non-Traffic-Sensitive (NTS) categories

  -TS includes switches and trunks that are part of the local service plant. Allocate TS costs according to relative minutes of use for toll service and other services

  -NTS includes the local loop. Allocate NTS according to a suitable formula. (The FCC now allows 25% for interstate toll use and intrastate toll typically pays about the same, while basic exchange and other services pay the other 50%)

- The debate centers around the allocation of common NTS costs. There are many possibilities ranging from 100% to basic exahange to a fair sharing among all service that use the local loop.

4. How should common costs be allocated? Is there a subsidy According to the original LMS decision by the PUC:

-"NET's studies have historically allocated all of the common costs to basic exchange service."

-"Dr. William Melody's method..would identify the stand-alone costs (of constructing a local telephone system and a separate toll system). The ratios of their costs would be used to allocate the common costs among the various services."

-"Dr. Paul MacAvoy, a witness presented by NET, advocated the use of Ramsey pricing. Under Ramsey pricing each service is priced at its long run marginal cost and then, to achieve the necessary revenue requirement prices are adjusted (upward)." (In order to retain as much business as possible, the most elastic services are given the smallest upward adjustments).

-In the past, PUC has allocated some of the common NTS costs to each service. In the language of variable cost accounting that is called a "contribution". However, in accounting that word does not mean a subsidy. In fact, PUC has concluded that "So long as the price (of a service) is within this range (between its short run marginal cost and its stand-alone cost), no subsidy exists." and " "Based on the limited data before us it cannot be proven that basic exchange service is subsidized by or subsidizing toll service."

-For the future, PUC suggests that this debate is sterile. The historical embedded common costs are irrelevant to sensible pricing...Today, more emphasis must be placed upon marginal costs. As segments of the telecommunication industry become increasingly subject to competition from both other common carriers and from large users who may construct and operate private telephone systems, the relevant costs become (the costs of the competition).

NOTE that because competition and technology-based cost-reductions are occurring primarily in the long-distance market, the last factor, commonly known as by pass, to the extent that it occurs, will drive down the price that can be charged for long distance, leaving more of the NTS costs to be borne by those who remain: the basic service customers. It is this fact more than anything else that is creating the upward pressure on local telephone rates.

5. A Sample Calculation of Telephone Pricing

- Suppose

(a) the average fixed cost, of the local loop is $24/month (that is called Non-Traffic Sensitive or NTS cost); and

(b) the average variable cost of the local loop is $5/month (that is called Traffic-Sensitive or TS cost), with an average local calling rate of about 500 minutes/month.

• Suppose it is determined that a fair allocation of the NTS costs is:

27% interstate long distance

40% intrastate long distance & other services

33% local

• How to design rates. They must recover the total cost

(a) Uniform Flat Rate=Fixed Cost Share + Average Variable Cost

=$8 + $5

=$13/month

(b) Measured Service=Fixed Cost Share + Usage Charge

=$8 + X cents/minute

(c) Usage Charge

If we ignore peak or off-peak then $X=\frac{\$5.00}{} = 1$ cent/minute

If we charge for peak only than $X=\frac{\$5.00}{250} = 2$ cents/minute

• How should rates be designed in a mixed system?

(a) Optional measured service. Assuming that 77% choose it and that these are generally low-use customers so they only pay about $8/mo., the flat rate must be increased to compensate for the lost revenue.

-The shortfall is 7% of the customers times $5 per customer. The other 93% of the customers must increase by $\frac{7}{93}$($5)=$0.38 to compensate so the flat rate should rise from $13 to $13.38.

-If 25% chose it then the flat rate should rise by $\frac{25}{75}$= $1.67 to $14.67

-If 50% chose it then the flat rate should be $\frac{50}{50}$ ($5)= $5 to $18 less the average amount contributed by usage charges. This is about $1.50 so the flat rate would be $16.50.

(b) Optional Flat service at cap. Assume 20% of customers reach cap and 80% are measured. This requires more detailed calculation of the usage charge for customers, but the $17.30.

For Bangor, the lowest 50% of the residential customers average 1 call/day X 3.2 min./call X 30 days/month=100 minutes/mo. About 75% of the calls are during peak hours (plan B) X 2¢=$1.50/month usage.

HW/elk/4762

STATE OF MAINE

Inter-Departmental Memorandum Date Jan. 20, 1986

To Haven Whiteside Dept. Leg. Assistant's Office

From David Moskovitz, Commissioner Dept. Public Utilities Comm.
Joseph D. Sukaskas, Rate Analyst

Subject N.E.T. - Non-Traffic Sensitive Costs

This memo is in reply to your request to Dick Darling for information related to N.E.T. local network costs.

Testimony in N.E.T.'s rate case filing in 1985 included analyses of local dial tone line and local usage costs. The following table summarizes relevant parts of those analyses.

MONTHLY COST PER LINE:	TOTAL	- USAGE	= DIALTONE LINE
Residence (1-party):	$35.06	$6.27	$28.79
Business:	32.04	9.54	22.50
STATEWIDE AVERAGE:	34.50	6.77	27.73

A further allocation of dial tone line costs can be developed:

Outside Plant (Loop)	$21.27
Local NTS C.O.E.	5.43
Entrance Facilities	1.03
Total	$27.73

An analysis of 1984 embedded cost data shows that the non-traffic sensitive costs of dial tone line access is about $22, or about $5 per month less than the 1985 data. We have not yet attempted to reconcile this data.

Using 1984 data without reflecting the results of the last two rate cases, the $22 cost was met by contributions from the following services.

Intrastate Toll	$8.50
Interstate Toll	9.00
Local Exchange	6.00
	$23.50*

* This figure exceeds $22 because in 1984 several other services were not contributing to common costs. This situation was changed during the course of the last two cases.

APPENDIX H

MAINE: NOVEMBER 1985 CONSTRUCTION PLANS AND BUDGET

DIAL WITH DIAL REPLACEMENT

DWD

November 1985 VIEW

Maine AREA

OFFICE	PRES. TYPE	PROP. TYPE	TOLL CENTER	BUILDING START	BUILDING COMP.	CENTRAL OFFICE EQPT. SHIP	CENTRAL OFFICE EQPT. SERVICE	DDD IDENT.
Waterville	1SXS	5ESS	WTVL	11-81A	11-83A	12-83A	6-84A	LAMA/CAMA
Rockland	1SXS	5ESS	RKLD	1-85A	12-85	6-85A	12-85	LAMA/CAMA
Camden	350A	5RSM	RKLD	--	--	12-85	2-86	LAMA/CAMA
So. Portland	1SXS	5ESS	PTLD	--	--	10-85	5-86	LAMA/CAMA
Yarmouth	355A	5RSM	PTLD	--	--	11-85	5-86	LAMA/CAMA
Freeport	355A	5RSM	PTLD	--	--	11-85	5-86	LAMA/CAMA
Brunswick	1SXS	DMS-100	PTLD	--	--	11-85	5-86	LAMA/CAMA
Bath	1SXS	DMS-100	PTLD	--	--	5-86	10-86	LAMA/CAMA
Old Orchard	355A	5RSM	BDFR	--	--	6-86	11-86	LAMA/CAMA
Biddeford	1SXS	5ESS	BDFD	--	--	6-86	11-86	LAMA/CAMA
Kennebunkport	355A	5RSM	BDFR	--	--	6-86	11-86	LAMA/CAMA
Scarboro	350A	#5RSM		--	--	1-87	4-87	LAMA/CAMA
Norway	350A	#5RSM		--	--	1-87	6-87	LAMA/CAMA
Farmington	355A	#5RSM		--	--	1-87	6-87	LAMA/CAMA
Windham	1SXS	#5RSM		--	--	1-87	4-87	LAMA/CAMA
Westbrook	350A	#5RSM		--	--	1-87	4-87	LAMA/CAMA

Source: NET District Manager- Construction Plans- Northern States November 1985..... ID#1666L

* Change from Previous View

Tentative Program for Budget Purposes Only

APPENDIX I

State of Maine

TO THE 112th LEGISLATURE OF THE STATE OF MAINE:

In accordance with Section 18 of Article IV, Part Third of the Constitution of the State of Maine, the undersigned electors of the State of Maine, qualified to vote for Governor, residing in this State, whose names have been certified, hereby respectfully propose to the Legislature for its consideration the following entitled bill:

AN ACT TO PROHIBIT MANDATORY LOCAL MEASURED SERVICE AND TO PRESERVE AFFORDABLE TRADITIONAL FLAT RATE LOCAL TELEPHONE SERVICE AT AS LOW A COST AS POSSIBLE.

The full text of this Act is printed on page 1 of this petition below.

DO YOU WANT TO BAN MANDATORY LOCAL MEASURED PHONE SERVICE AND DIRECT THE STATE TO KEEP FLAT RATE LOCAL PHONE SERVICE AT AS LOW A COST AS POSSIBLE?

AN ACT to Prohibit Mandatory Local Measured Service and to Preserve Affordable Traditional Flat Rate Local Telephone Service at as Low a Cost as Possible.

35 MRSA §80 is enacted to read:

§80. Mandatory local measured telephone service prohibited.

1. Mandatory measured service. Mandatory local measured telephone service is prohibited in the State.

2. Traditional Flat Rate Local service. The Public Utilities Commission shall establish rates for telephone companies which will preserve Traditional Flat Rate Local Telephone Service at as low a cost as possible allowing for unlimited local exchange calling for a single monthly fee as the standard phone service in the State for both business and residential customers. Flat rate service with unlimited local calling shall be described by the telephone company as the "standard" service in all its communications with the public and the Public Utilities Commission. Any other local calling service shall be described as an "optional" service.

3. Standard. In any proceeding before the Supreme Judicial Court or the Public Utilities Commission to review the reasonableness and lawfulness of a local telephone rate approved by the Public Utilities Commission, it shall be presumed that any rate which results in less than 3/4 of the residential customers maintaining standard flat rate service in those exchanges offering optional measured service is in violation of subsection 2, requiring the Public Utilities Commission to establish a rate structure which will preserve Traditional Flat Rate Local Service at as low a cost as possible. The presumption established in this subsection may be overcome by clear and convincing evidence that no reasonable alternative rate could be implemented which will maintain 3/4 of the residential customers as standard flat rate customers.

STATEMENT OF FACT

This bill is designed to provide Traditional Flat Rate Local Telephone Service at as low a cost as possible and bans mandatory local measured service.

APPENDIX J

JAMES E. TIERNEY
ATTORNEY GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
STATE HOUSE STATION 6
AUGUSTA, MAINE 04333

January 15, 1986

Honorable Harry L. Vose
Chairman, Joint Standing Committee
on Utilities
House of Representatives
State House Station #2
Augusta, Maine 04333

Dear Representative Vose:

I am writing in response to your recent question concerning the effect of the filing of an initiative petition, pursuant to Article IV, Part 3, Section 18 of the Maine Constitution, on an outstanding order of the Maine Public Utilities Commission directing that local measured telephone service be implemented by the New England Telephone and Telegraph Company in certain areas of the State on February 15, 1986. For the reasons which follow, it is the Opinion of this Department that the filing of such a petition, even prior to the effective date of the Commission's order, would have no bearing on its effectiveness.

Article IV, Part 3, Section 18 of the Maine Constitution provides that persons seeking to enact, amend or repeal legislation may file petitions to that effect, signed by not less than 10 percent of the total vote for Governor cast in the preceding gubernatorial election, requesting that the Legislature enact such legislation. In the case of a second regular session of the Legislature, such petitions must be filed on or before the 20th day after the convening of the session. If the Legislature does not enact the initiated bill as proposed, the Constitution provides that the measure shall be submitted to the electorate.

Noticeably absent from this constitutional procedure for the enactment of legislation is any provision concerning the effect of filing of initiative petitions on existing law. On its face, it is quite clear that the filing of such petitions

has no effect upon existing law. While Article IV, Part 3, Section 17, the so-called "people's veto" provision, specifies that the filing of a petition during the period of 90 days following the recess of any session of the Legislature prevents the effectiveness of any non-emergency law passed by that session until such law is ratified by a majority of the electorate at a state-wide election, that provision has no effect on laws in effect as a result of previous legislative action. Since the question which you pose does not arise during such a 90-day period, the "people's veto" provisions of the Maine Constitution do not apply.

Beyond this, of course, the order which the initiative petition seeks to affect is not legislation at all, but the quasi-judicial action of a state agency, the Public Utilities Commission, with regard to a particular private entity, a telephone company. Thus, even if the petition at issue here were to have been filed during the 90-day period following the recess of a session of the Legislature, it would be ineffective to prevent the entry into force of such an order, since the order is not one which was made by the Legislature. For this additional reason, therefore, the filing of the petition would have no bearing on the effectiveness of the order.

The only way for the effectiveness of the Commission's order to be suspended through the legislative process would be for the Legislature itself to pass emergency legislation prior to the February 15, 1986 effective date, pursuant to Article IV, Part 3, Section 16 of the Maine Constitution. Such action, of course, requires a two-thirds vote of all the members elected to each House. There is no other constitutional mechanism available either to the Legislature or the citizens of the State to prevent the entry into force of the Commission's order. The only available mechanism is the passage of emergency legislation, unless, of course, the Commission can be persuaded informally to reverse its action.

I hope the foregoing is of assistance to you. Please feel free to reinquire if further clarification is necessary.

Sincerely,

JAMES E. TIERNEY
Attorney General

JET-ec
cc: Peter A. Bradford, Chairman
Public Utilities Commission