

STATE OF VERMONT
PUBLIC SERVICE BOARD

DOCKET NUMBER 8881

JOINT PETITION OF CONSOLIDATED COMMUNICATIONS HOLDING, INC., CONSOLIDATED COMMUNICATIONS, INC., FALCON MERGER SUB, INC., FAIRPOINT COMMUNICATIONS, INC., TELEPHONE OPERATING COMPANY OF VERMONT LLC D/B/A FAIRPOINT COMMUNICATIONS, FAIRPOINT VERMONT, INC., D/B/A FAIRPOINT COMMUNICATIONS, UI LONG DISTANCE, INC., AND ENHANCED COMMUNICATIONS OF NORTHERN NEW ENGLAND, INC., FOR APPROVAL OF A TRANSFER OF CONTROL BY MERGER, PURSUANT TO 30 V.S.A. SECTIONS 107, 108, 109, 231(a), AND 311.

May 9, 2017
9 a.m.

112 State Street
Montpelier, Vermont

Technical Hearing held before the Vermont Public Service Board, at the Susan M. Hudson Conference Room, People's United Bank Building, 112 State Street, Montpelier, Vermont, on May 9, 2017, beginning at 9 a.m.

P R E S E N T

BOARD MEMBERS: James Volz, Chairman
 Margaret Cheney
 Sarah Hofmann

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1 CHAIRMAN VOLZ: Good morning. We're
2 here this morning for Docket Number 8881 which is the
3 joint petition of Consolidated Communications
4 Holdings, Inc., Consolidated Communications, Inc.,
5 Falcon Merger Sub, Inc., FairPoint Communications,
6 Inc., Telephone Operating Company of Vermont LLC
7 doing business as FairPoint Communications, FairPoint
8 Vermont, Inc. doing business as FairPoint
9 Communications, UI Long Distance, Inc., Enhanced
10 Communications of Northern New England, Inc. for
11 approval of a transfer of control by merger, pursuant
12 to 30 V.S.A. Sections 107, 108, 109, 231(a) and 311.
13 I would like to start by taking notices of
14 appearance.

15 MR. BURKE: I'm Daniel Burke on behalf
16 of the Department of Public Service. With me today
17 is Clay Purvis, Curtis Mills, Wayne Lafferty, Scott
18 Wierson, Ardeth Smith, and Joel Jeanson.

19 CHAIRMAN VOLZ: Thank you.

20 MR. RUBIN: Good morning, Mr. Chairman.
21 Scott Rubin representing the Communications Workers
22 of America and the International Brotherhood of
23 Electrical Workers. With me this morning is Michael
24 Spillane, the Business Manager of IBEW Local 2326
25 here in Vermont.

1 CHAIRMAN VOLZ: Thank you.

2 MR. PHILLIPS: Good morning, Mr.
3 Chairman, Members of the Board. I'm Paul Phillips
4 from the law firm of Primmer Piper Eggleston & Cramer
5 here in Montpelier on behalf of FairPoint
6 Communications, Inc. I'm joined at the table by
7 Michael Reed who is FairPoint's State President in
8 Vermont and in Maine, and over in the corner there is
9 Robert Meehan who is Fairpoint's Director of
10 Regulatory Affairs.

11 CHAIRMAN VOLZ: Thank you.

12 MS. BOUFFARD: Good morning. I'm Debra
13 Bouffard from Sheehey Furlong & Behm. I have with me
14 this morning my colleague Owen McClain, and here on
15 behalf of the Consolidated entities and from
16 Consolidated I have the Vice President of Regulatory
17 and Public Policy Mike Shultz with me this morning,
18 as well as Gabe Waggoner, Vice President of
19 Operations, and Steve Childers, the CFO of
20 Consolidated.

21 CHAIRMAN VOLZ: Great. Thank you. So
22 where would we like to start today with -- someone
23 suggested that Mr. Reed was prepared -- he did the
24 research and was ready to come back and tell us some
25 of the things he was going to check into.

1 MR. PHILLIPS: Yes.

2 CHAIRMAN VOLZ: Thanks.

3 BOARD MEMBER CHENEY: Good morning, Mr.
4 Reed. I'll just remind you, you remain under oath
5 from yesterday.

6 MR. REED: Thank you.

7 MR. PHILLIPS: Mr. Chairman, may I
8 approach the bench?

9 CHAIRMAN VOLZ: Excuse me?

10 MR. PHILLIPS: May I approach the bench?

11 CHAIRMAN VOLZ: Yes of course.

12 MR. PHILLIPS: I have a few exhibits
13 that will accompany Mr. Reed's redirect testimony.

14 MICHAEL REED,

15 Having been duly sworn, testified
16 as follows:

17 REDIRECT EXAMINATION

18 BY MR. PHILLIPS:

19 Q. Good morning, Mr. Reed.

20 A. Good morning.

21 Q. I have three areas I need to clear up from
22 your testimony yesterday.

23 CHAIRMAN VOLZ: Excuse me. One of the
24 things you handed us is marked highly confidential.

25 MR. PHILLIPS: I'm sorry. Yes. The

1 last exhibit, which is remarked as FP 4, is a highly
2 confidential exhibit. It was not provided in an
3 envelope. I would ask that it be treated as highly
4 confidential.

5 CHAIRMAN VOLZ: Okay. Thank you. Go
6 ahead.

7 MR. PHILLIPS: Thank you.

8 BY MR. PHILLIPS:

9 Q. Mr. Reed, do you recall your testimony
10 yesterday with Mr. Burke where he asked you about the 2016
11 annual report for Telephone Operating Company of Vermont?

12 A. Yes.

13 Q. All right. Can you direct your attention to
14 Schedule B7 of that report?

15 A. Yes.

16 Q. And he asked you with respect to the line
17 marked total plant specific operations expense whether
18 that represented FairPoint's 2016 capital expense amount?

19 A. Yes.

20 Q. Do you recall that?

21 A. Yes.

22 Q. Have you had time to reconsider your answer
23 from yesterday?

24 A. Yes.

25 Q. And what is your answer today?

1 A. I was incorrect.

2 Q. So that number does not represent FairPoint's
3 capital expenditures?

4 A. No. That's operation expense.

5 Q. All right. Thank you. And didn't you provide
6 a discovery response in response to the Department's set
7 three?

8 A. Yes.

9 Q. Which laid out FairPoint's capital
10 expenditures for 2016?

11 A. Yes.

12 Q. And is that -- has that been premarked as
13 exhibit FP 2?

14 A. Yes.

15 Q. And did that -- was that accompanied by a
16 highly confidential exhibit that has been premarked as
17 exhibit FP 4?

18 A. Yes.

19 Q. And does that reflect FairPoint's 2016 and
20 2015 capital expense?

21 A. Yes, the actuals by the major categories.

22 Q. Thank you. Now with respect to schedule B7
23 again Mr. Young asked you whether the line that was marked
24 miscellaneous revenue included CAF II revenue, and you
25 indicated you wanted to think about that one and have you

1 thought about that one?

2 A. Yes it does.

3 Q. And it does?

4 A. Yes it does.

5 Q. Thank you. And then finally, with respect to
6 your rebuttal testimony, on page 9 lines 5 and 6 there was
7 a discussion of the head count numbers versus the access
8 lines and you were asked whether the access lines included
9 wholesale lines?

10 A. Right.

11 Q. And have you had a chance to think about that
12 one?

13 A. Yes. I just went back and verified the
14 wholesale count that's in there. It does include resale.
15 It includes unbundled network element platform and
16 unbundled network loops. They are included in that count.

17 Q. Just one item I overlooked which is with
18 respect to the CAF II amount from the second issue didn't
19 you answer a discovery response with that one as well?
20 That was discovery response DPS FP 3-3.

21 A. Yes.

22 Q. And that's been premarked as exhibit FP 3?

23 A. Correct.

24 Q. And that did indicate that CAF II support is
25 reported under miscellaneous revenue?

1 A. Under miscellaneous, yes.

2 MR. PHILLIPS: I would move the
3 admission of exhibits FP 1, FP 2, FP 3, FP 4.

4 CHAIRMAN VOLZ: Okay. They are
5 admitted.

6 (Exhibits marked FP 1-4 were admitted
7 into the record.)

8 MR. PHILLIPS: I have no further
9 questions for Mr. Reed.

10 CHAIRMAN VOLZ: I had a question for
11 you, Mr. Phillips. All the other parties have
12 provided confidential stuff in envelopes. Is there a
13 particular reason why you haven't been able do that
14 because that really puts a burden on everybody else.

15 MR. PHILLIPS: I appreciate that, Mr.
16 Chairman, and I do apologize. The answer is we
17 realized only this morning that we had these
18 discovery responses.

19 CHAIRMAN VOLZ: Yesterday you did the
20 same thing too.

21 BOARD MEMBER HOFMANN: Mr. Rubin did.

22 CHAIRMAN VOLZ: I'm sorry.

23 BOARD MEMBER HOFMANN: But still the
24 point is please put them in envelopes.

25 CHAIRMAN VOLZ: Thank you.

1 MR. PHILLIPS: And I would just note I
2 did not in fact admit any of the confidential
3 exhibits yesterday.

4 CHAIRMAN VOLZ: Okay. Thanks. Any
5 other questions for this witness from the parties in
6 light of the update we just got?

7 MR. BURKE: I have none.

8 MS. BOUFFARD: I have none.

9 CHAIRMAN VOLZ: I know we do. Okay. Go
10 ahead.

11 MR. YOUNG: Mr. Reed, let me ask you
12 about FP 4 please. What I did want to ask about was
13 when I look at this figure for -- I assume the number
14 I should be looking at is the one in the box; is that
15 correct?

16 MR. REED: I'm sorry. I do not have the
17 exact exhibit number. I'm looking at the DPS 3-02
18 attachment.

19 MR. YOUNG: Attachment 1.

20 MR. REED: Let me just make sure.

21 CHAIRMAN VOLZ: So we're referring to
22 exhibit FP 4?

23 MR. YOUNG: 4 which is DPS 3-02
24 Attachment 1.

25 MR. REED: Yes.

1 MR. YOUNG: So the capital expenditures
2 are the figures in the box; is that correct?

3 MR. REED: The total CapEx, yes.

4 MR. YOUNG: The total CapEx?

5 MR. REED: Yes.

6 MR. YOUNG: Does that include money
7 expended for CAF II?

8 MR. REED: Yes.

9 MR. YOUNG: So is this -- this is just
10 Telephone Operating Company of Vermont, correct?

11 MR. REED: Yes.

12 MR. YOUNG: And I think we saw a figure
13 yesterday of a little over 8 million dollars was
14 expended for CAF II fund or received, correct?

15 MR. REED: Yes.

16 MR. YOUNG: And so if I were looking at
17 the non-capital expenditures I should subtract that
18 number out of these figures?

19 MR. REED: I'm sorry.

20 MR. YOUNG: If I'm trying to figure out
21 what the capital expenditures not counting CAF II
22 were, I should subtract that 8 million dollars out of
23 these figures; is that correct?

24 MR. REED: I'm sorry. I'm missing what
25 you're saying. Once more.

1 MR. YOUNG: Let me try -- let me do it
2 incrementally. I believe you said that these numbers
3 include expenditures on CAF II, correct?

4 MR. REED: Yes.

5 MR. YOUNG: So if I was trying to find
6 out what the capital expenditures not counting CAF II
7 expenditures were, I should subtract 8 million
8 dollars?

9 MR. REED: Yes. That is -- yes and the
10 major categories are on the left-hand column of what
11 the expenditures are.

12 MR. YOUNG: That's all I have. Thank
13 you.

14 CHAIRMAN VOLZ: Any followup? Any
15 redirect? Mr. Rubin, do you have followup?

16 MR. RUBIN: I'm a little confused.
17 First on FP 4 can we talk about the words on the
18 left-hand side of the page in the public record?

19 CHAIRMAN VOLZ: Do we need to go under
20 seal, in other words, to answer questions other than
21 things other than the numbers on this exhibit?

22 MR. PHILLIPS: We can talk about some of
23 the words. I believe the bold-faced words were in
24 the public record yesterday.

25 CROSS EXAMINATION

1 BY MR. RUBIN:

2 Q. Well on the left-hand column there's a listing
3 for CAF II and the number next to that is less than the 8
4 million dollars you just discussed with Mr. Young.

5 A. Yes.

6 Q. Is that the correct figure to subtract from
7 capital expenditures to get non CAF spending?

8 A. Yes.

9 MR. RUBIN: Thank you.

10 CHAIRMAN VOLZ: When you say is that the
11 correct number which number are you referring to?
12 The one on the sheet here or the 8 million?

13 MR. RUBIN: Thank you. You're right
14 that was very unclear. There is next to the CAF II
15 line --

16 CHAIRMAN VOLZ: So it's the number on
17 the sheet you were referring to?

18 MR. RUBIN: Yes. I was referring to the
19 number on the sheet on the CAF II line, and is that
20 what you meant, Mr. Reed?

21 MR. REED: Yes.

22 MR. RUBIN: Thank you.

23 CHAIRMAN VOLZ: Thank you.

24 BOARD MEMBER HOFMANN: Mr. Reed, why is
25 that number different? It is a public figure. Why

1 is the number on FP 4 different than the 8 million
2 dollars that's a public number?

3 CHAIRMAN VOLZ: And if you need to go
4 under seal to answer this, we can.

5 MR. PHILLIPS: I don't believe so.

6 MR. REED: The 8 million dollars that
7 will -- would have been referenced is the revenue
8 coming that is the CAF payment. This is the amount
9 of capital expenditure that has been spent on CAF in
10 this particular period of time.

11 BOARD MEMBER HOFMANN: And did you start
12 spending on CAF partway through the year?

13 MR. REED: Partway through 2016.

14 BOARD MEMBER HOFMANN: 2016.

15 MR. REED: I couldn't say. I mean
16 there's lots of projects in flight.

17 BOARD MEMBER HOFMANN: And the number on
18 FP 4 is the actual?

19 MR. REED: Yes.

20 BOARD MEMBER HOFMANN: Thank you.

21 MR. REED: Just if I could, it's to
22 build and maintain and some many locations over a
23 long period of time, six-year period of time. So
24 there's -- it will never be an exact tie and as it
25 gets more expensive this number will obviously

1 change. So it's build and maintain those locations.

2 BOARD MEMBER HOFMANN: Okay. Thank you.

3 CHAIRMAN VOLZ: Any other questions for
4 this witness?

5 MS. BOUFFARD: No thank you.

6 CHAIRMAN VOLZ: Thank you, Mr. Reed. So
7 are we up to Mr. Spillane at this point?

8 MR. RUBIN: Yes.

9 BOARD MEMBER CHENEY: Good morning, Mr.
10 Spillane.

11 MR. SPILLANE: Good morning.

12 MICHAEL SPILLANE:

13 Having been duly sworn, testified
14 as follows:

15 DIRECT EXAMINATION

16 BY MR. RUBIN:

17 Q. Good morning, Mr. Spillane.

18 A. Good morning.

19 Q. First I want to make sure you have a copy of
20 your prefiled direct testimony with you.

21 A. I do.

22 Q. And the -- sorry. Do you have any changes or
23 corrections to make in that testimony?

24 A. No I do not.

25 MR. RUBIN: The parties have stipulated

1 to the testimony so at this point I would move it
2 into evidence and make Mr. Spillane available for
3 questioning.

4 CHAIRMAN VOLZ: Okay. It's admitted.

5 (The Prefiled Testimony of Michael
6 Spillane was admitted into the record.)

7 <http://epsb.vermont.gov/?q=download/1114811/27345>

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1 MR. RUBIN: Thank you.

2 CHAIRMAN VOLZ: And who is going first?

3 MS. BOUFFARD: I have no questions for
4 Mr. Spillane.

5 CHAIRMAN VOLZ: All right.

6 MR. PHILLIPS: I have no questions
7 either.

8 MR. BURKE: Likewise I don't have any
9 questions for the witness.

10 CHAIRMAN VOLZ: That's everybody, right?
11 Okay, except for us. So we have questions. I think
12 we have questions.

13 MR. SPILLANE: I'm glad somebody does.

14 MR. YOUNG: Good morning, Mr. Spillane.

15 MR. SPILLANE: Good morning.

16 MR. YOUNG: I thought I would print out
17 a full size version of your testimony, but I
18 apparently have to squint to see what my notes are
19 here. So a couple questions. You've raised concerns
20 about the staffing decisions that FairPoint has made,
21 correct?

22 MR. SPILLANE: Yes.

23 MR. YOUNG: In your view have these
24 directly affected the service quality for Vermont
25 consumers?

1 MR. SPILLANE: Absolutely.

2 MR. YOUNG: Can you explain how?

3 MR. SPILLANE: Basically FairPoint has
4 different levels of service that they deliver. As
5 you know that when the company makes a decision to go
6 out and do work, whether it's new work, repair
7 installation type work, they put everything into a
8 pecking order. So you know if it's an enterprise
9 customer, they become a high priority. A Public
10 Service Board complaint gets to the top of the list.
11 A regular customer who has his POTS DSL type service
12 kind of goes to the bottom.

13 So we're at the point now where our
14 staffing is taking care of the big fires, but a lot
15 of the little fires seem to be put on hold. In our
16 major construction departments we have issues now
17 where because of the staffing that we have FairPoint
18 has to make the decision of what work they are going
19 to get done in a reasonable amount of time. So if
20 our line crews go out and they are fixing a
21 restoration from a broken pole, a storm or whatever,
22 with the limited number of OPTs that you have a lot
23 of times they make the decision to not finish a job,
24 get it to where it's working and safe, and hopefully
25 on another day come back because especially with our

1 line crews if the guys worked 15 hours or more in a
2 24 hour period, they are required by the contract to
3 have the next shift off for safety reasons. So if
4 you're a manager in a garage and you got only four
5 linemen attached to your garage, they go out the
6 night before, now they have worked all night and they
7 take time off, now the work load you had set up for
8 them the next morning can't get done because the guys
9 aren't in. So it really ties everybody up trying to
10 get things done with such a limited work force.

11 MR. YOUNG: So what I'm trying to figure
12 out as I read your testimony is whether what I'm
13 seeing is a disagreement between -- is actually a
14 disagreement between you and management about how
15 things ought to be prioritized. Why is that not what
16 I should get out of your testimony?

17 MR. SPILLANE: I guess it depends on in
18 what way you want to look at things. Management is
19 trying to run a company as if you would run a bunch
20 of employees on an assembly line. It's great they
21 come up with all these new systems that increase
22 productivity and do all of that, but we are at heart
23 the utility and a utility doesn't fit into that kind
24 of format. It just doesn't work for us. You know we
25 can't say how long it's going to take a tech to go

1 out and do an install. We had one just a couple
2 weeks ago with the fancy GPS that my guys are out
3 there running around knowing if they don't get four
4 jobs in a day they have a guy watching the computer
5 wanting to know why you're not moving all around. A
6 guy was brought in to get in trouble because
7 according to the matrixes they have set up he should
8 have finished this install and moved on, but nobody
9 hold him about the two vicious rottweilers that were
10 in the yard that put him up in a tree where he ended
11 up spending two and a half hours until somebody let
12 him out. Meanwhile to management the red light is
13 going off because he's not moved on to his next job
14 and according to our widgets that should have taken
15 you 45 minutes and moved on.

16 MR. YOUNG: Let me ask you a different
17 question about that. This is on page 5 of your
18 direct testimony. Actually I think it was triggered
19 by page 5, but it really doesn't get into specifics.
20 Since your testimony have you had any -- you or any
21 members of the union have discussed with Consolidated
22 about the issues that you have raised in here?

23 MR. SPILLANE: I've raised staffing
24 issues since we became FairPoint for a variety of
25 reasons. It comes up most -- all the time. We have

1 what we call common interest meetings where we meet
2 with high level managers. The biggest one we meet
3 with usually is Richard Murtha who I believe he's
4 vice president of operations. I'm not quite sure of
5 what his exact title is, but he basically has overall
6 responsibility for say our outside forces or the guys
7 you see on the truck, and we constantly fight with
8 him over staffing levels and what he's allowed to get
9 from corporate and what we think we need for the job.
10 It's a constant battle and we don't agree. There
11 comes a level when we may feel it becomes a safety
12 issue, we will draw the line when it comes to that.
13 Harder than we have than just what we think we need.

14 I don't want the impression to be out
15 there the union just sits here and wants, you know,
16 what they want for reasons other than we want it. We
17 don't. We understand that the company needs to have
18 a correct staffing level to get the job done
19 effectively and safely. We just differ on how that
20 needs to be done. You have to remember for most of
21 these jobs, especially when you're talking about our
22 linemen which is where I'm hurting the most in the
23 state, it's very easy to die doing that job. It
24 takes many years to learn it. Right now, you know,
25 our junior people have coming up on 20 years service.

1 If you work outside for 20 years climbing poles,
2 doing all that stuff, you know, you start to slow
3 down. You know as the body gets older we all can't
4 do what we did when we were 18. We need to bring
5 bodies in. I'm very concerned right now because we
6 have a retirement offer that sunsets this August 22nd
7 where people could take a retirement incentive to
8 leave. I'm very concerned that I'm going to lose a
9 number of people on that and we've addressed that
10 with management and I think it's going to leave us in
11 a very bad spot.

12 Now we would have liked to have sat down
13 with Consolidated and see if we could have extended
14 that, you know, to maybe the end of the contract or
15 do something, but we have not had the ability to do
16 that. So right now I could possibly lose another 30
17 people by August here which quite frankly I don't
18 know how we would run the business in Vermont. If
19 the other two states are as lean as we are, which I
20 know they are pretty lean, if we have a big storm
21 that comes in and affects all the areas at once, who
22 are you going to borrow people from. You seen last
23 week in Rutland we had a storm that blew through
24 there and ripped stuff up pretty good. You know you
25 got to have people here to do the job, and I don't

1 know what we're going to do going down the road if we
2 continue down the road we're going on now and don't
3 replace these people, especially if we don't replace
4 them in a timely manner that allows them to learn the
5 job so they can go out and do it safely. We have
6 seen over the years and thank God knock wood I have
7 never had a death in Vermont you know in my
8 organization, but local 300 has not been so lucky and
9 I don't want to see that happen, but we got to get
10 people out there and effectively trained to get them
11 the tools to do the job correctly and I think we have
12 a real risk right now.

13 MR. YOUNG: Your answer was mostly
14 focused on your interaction with FairPoint or pretty
15 much exclusively focused on that. The question I was
16 getting at have you -- what's before the Board is
17 whether to approve Consolidated's acquisition. Have
18 you talked to Consolidated at all about some of these
19 concerns and do you have any idea as to what their
20 view of your concerns would be?

21 MR. SPILLANE: I have been -- the only
22 time I've talked to Consolidated is when I said hello
23 to these gentlemen here in this hearing. I have been
24 told that they are not willing or able to speak to us
25 until they complete the sale.

1 BOARD MEMBER HOFMANN: So two things
2 based on the back and forth and what's in your
3 testimony is that, one, you don't like the way
4 FairPoint does dispatch. Is that fair?

5 MR. SPILLANE: The way FairPoint is
6 doing dispatch is a mess. It's not about what I
7 like.

8 BOARD MEMBER HOFMANN: Okay. That's
9 fine. And, two, that you're worried that with these
10 synergies that Consolidated is trying to get it's
11 also going to further eat into the ability to
12 dispatch, but do you have any direct knowledge of how
13 Consolidated does their dispatch?

14 MR. SPILLANE: No.

15 MR. YOUNG: I have no further questions.
16 Thank you.

17 MS. FABRIZIO: I just want to understand
18 you mentioned at the beginning you talked about
19 decisions being made to not finish a job. Is that --
20 what triggers that? Is that the clock ticking or is
21 that a management directive or who makes that
22 decision?

23 MR. SPILLANE: It's probably a
24 management directive. I know management, and it
25 doesn't matter whether it's the outside plant

1 technicians who are doing the heavy construction,
2 placing poles or cable, or if it's the splicers
3 whether they are doing routine splice work or
4 installation and maintenance work, the management
5 team, the local level managers constantly meet in
6 what they call their pod calls because they got to
7 figure out the work load they have and the amount of
8 technicians they have and who do they got to move to
9 the left to the right or whatever to get things done,
10 and it's probably based out of their desire to get
11 stuff done with the schedule they have to keep that
12 they may get things to a certain level where it can
13 sit until an easier day maybe or not such a heavy
14 schedule they have to finish up housekeeping points.

15 MS. FABRIZIO: But when the techs are in
16 the field someone's telling them to stop work in the
17 middle of a job and leave the site?

18 MR. SPILLANE: Well not in the middle of
19 a job, but, you know, if you go out you may not do
20 the complete job. You may do just what needs to be
21 done to get somebody put back in service, and even
22 though there may be other things that need to be
23 done, you know, in the old days if you went out, you
24 know, and a technician would stay on the job more to
25 finish it to the point where you never had to go

1 back. Today that's not so much the case. There's
2 more a push to get people to accomplish so many jobs
3 in a day. So if it takes more than a set amount of
4 time, I think they are more likely to tell them, you
5 know, set it where you can and put notes in the
6 record and move on.

7 MS. FABRIZIO: Thank you. And the
8 anecdote about the rottweilers, if that technician
9 goes back to the office and explains to management is
10 there not an opportunity to explain or is there no
11 mechanism for discussion of these types of issues
12 that might happen out in the field?

13 MR. SPILLANE: Not at the time. The
14 managers that we have here don't have the time to be
15 out in the field as much because like everybody else
16 they have to do more with less. So they are pretty
17 much looking at just the computer screen with the GPS
18 dot and where it is and there's different levels of
19 managers that look at things. So if the guy started
20 8 o'clock, if their truck is not out of the garage by
21 8:15, the manager is going to get a call why haven't
22 the guys moved, and it just keeps going along that
23 route and that's part of the problem. That may work
24 on an assembly line where each employee does their
25 little piece and it moves on down the road, but when

1 you have a job in a utility company that has so many
2 variables in your day, you know, it's not that easy
3 to do that kind of cutting. I don't know how you can
4 make it work. I mean obviously we want to make it
5 better than it is. There's a lot of problems out
6 there right now that are not being addressed, and
7 Consolidated did say the other day that, you know,
8 they took a little bit of time driving down Route 7
9 to see that the poles are up, but they were clear to
10 say that, you know, they don't know the condition of
11 the copper, and I'm afraid that if this transaction
12 gets approved without them knowing more about their
13 business, they are going to find out a lot of things
14 after the fact that they didn't account for and then
15 they are going to be going back to try to raise money
16 or raise awareness to get those things dealt with and
17 they are not being talked about at a crucial time
18 like this. I mean we don't go out and buy a car or
19 do anything without taking the time to check it out
20 to see what you're buying. I'm being told from a lot
21 of my people everyday there's some serious issues out
22 there that I really don't believe they know about and
23 I think they should know about before this
24 transaction went any further.

25 MS. FABRIZIO: Thank you.

1 MR. SPILLANE: It only makes it better
2 for Vermont to know what we're getting so we can get
3 it done correctly. I mean when it was done with
4 FairPoint, FairPoint inherited a lot of baggage that
5 they didn't know about and they should have known
6 about it then, and I really think we need to not
7 repeat some of the mistakes of the past because at
8 the end of the day we have customers that want this
9 which is not a luxury service any more. It's
10 necessary for life to have good decent stable
11 broadband throughout the state.

12 MS. FABRIZIO: Thank you.

13 CHAIRMAN VOLZ: Any followup on our
14 questioning before we go to redirect?

15 MS. BOUFFARD: No followup.

16 MR. PHILLIPS: No.

17 CHAIRMAN VOLZ: Any redirect?

18 MR. RUBIN: No.

19 CHAIRMAN VOLZ: Thank you, Mr. Spillane.
20 Appreciate you coming in.

21 MR. SPILLANE: Thank you.

22 CHAIRMAN VOLZ: Now we're up to the
23 Department's case.

24 MR. BURKE: Before I call the scheduling
25 order this docket contemplated that we would have an

1 opportunity for live rebuttal and I asked for that
2 and I'm going to try to keep that very limited and I
3 actually should be able to maintain the time levels
4 that I put --

5 CHAIRMAN VOLZ: So when were you
6 planning to do the live rebuttal?

7 MR. BURKE: I'll do it for each witness.

8 CHAIRMAN VOLZ: At the beginning when
9 they get on the stand before we start questioning?

10 MR. BURKE: Yes, sir, and I'm going to
11 have Brian Winn as my first witness.

12 CHAIRMAN VOLZ: Okay.

13 BOARD MEMBER CHENEY: Good morning, Mr.
14 Winn.

15 MR. WINN: Good morning.

16 BRIAN WINN,

17 Having been duly sworn, testified
18 as follows:

19 DIRECT EXAMINATION AND REBUTTAL

20 BY MR. BURKE:

21 Q. Mr. Winn, do you have in front of you a copy
22 of your prefiled direct testimony?

23 A. I do.

24 Q. And you did not sponsor any exhibits; is that
25 correct?

1 A. Correct.

2 Q. And do you need to make any revisions or
3 corrections to your testimony?

4 A. I do not.

5 MR. BURKE: And the testimony's been
6 stipulated so at this point I would just like to move
7 for it to be entered into the record.

8 CHAIRMAN VOLZ: Yes. Then it's
9 admitted. Thank you.

10 (The Prefiled Testimony of Brian Winn
11 was admitted into the record.)

12 <http://epsb.vermont.gov/?q=downloadfile/114952/27345>

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1 BY MR. BURKE:

2 Q. Mr. Winn, I just have a few questions for you
3 before we begin cross examination. You have worked with
4 Mr. Jeanson throughout the process throughout discovery
5 and preparing testimony; is that correct?

6 A. Yes.

7 Q. And it would be fair to say you discussed the
8 Department's recommendation regarding dividend reductions
9 with Mr. Jeanson?

10 A. Yes.

11 Q. And you understand the Department's rationale
12 for making that recommendation?

13 A. Yes.

14 Q. And can you briefly describe it?

15 A. The rationale for making that recommendation
16 was to provide leadership, management of CCI with the
17 appropriate incentives to comply with what we would
18 request as the minimum capital spending requirements.

19 Q. Okay. And so the importance there is the
20 capital expenditure requirement not necessarily the
21 dividend?

22 A. Yes. It was not related to any sort of
23 concern around the financial structure of CCI.

24 Q. And it wasn't intended to be a punitive
25 recommendation?

1 A. Correct.

2 Q. And to the best of your knowledge is it
3 unusual within regulatory proceedings or orders to tie a
4 requirement to a company's shareholder dividends?

5 A. I would say at this level it's kind of unusual
6 for the assets of one state to encumber the dividends of
7 the entire company, but -- it's unusual, but it's not
8 completely unheard of. Let's put it that way.

9 Q. And you have reviewed Consolidated's rebuttal
10 testimony?

11 A. Yes I have.

12 Q. And you heard their live testimony yesterday?

13 A. Yes I did.

14 Q. So you're aware of the company's concerns with
15 respect to the dividend recommendation?

16 A. Yes. I'm aware of the concerns.

17 Q. And do you think those concerns are
18 legitimate?

19 A. Yes. I would say that Mr. Childers given his
20 position would have -- I understand his concerns not
21 wanting to encumber the dividend in any way for what I
22 consider would be a small issue.

23 Q. And then my final question for you then is
24 would you be willing to consider alternative approaches
25 for an enforcement mechanism on the CapEx?

1 A. Yes. The Department's willing to consider
2 alternative approaches.

3 MR. BURKE: And that's all I have for
4 rebuttal for Mr. Winn so he's available for
5 questioning.

6 CHAIRMAN VOLZ: Okay. Did the parties
7 have a particular preference as far as which order
8 they want to go in for cross examination?

9 MR. PHILLIPS: I think Consolidated
10 should go first.

11 MS. BOUFFARD: I don't have any cross
12 examination for the witness.

13 CHAIRMAN VOLZ: Okay.

14 MR. PHILLIPS: Mr. Burke covered a
15 couple of the issues I wanted to cover. Let me just
16 go through here -- I don't have any cross examination
17 for Mr. Winn either.

18 CHAIRMAN VOLZ: Mr. Rubin.

19 MR. RUBIN: No questions.

20 CHAIRMAN VOLZ: Okay. Do we have
21 questions?

22 MR. YOUNG: Yes. Just a few. Good
23 morning, Mr. Winn.

24 MR. WINN: Good morning.

25 MR. YOUNG: So on page 3 of your

1 testimony you recommend that Consolidated be required
2 to provide a firm three-year capital investment plan.
3 Do you recall that?

4 MR. WINN: Page 3. Yes I see it. Line
5 19.

6 MR. YOUNG: Your recommendation here is
7 that it be provided within six months of approval.
8 My question is shouldn't this -- why shouldn't this
9 be provided before a final decision by the Board?
10 Why later?

11 MR. WINN: Well I would say that the
12 rationale I would use is that Consolidated needs time
13 to go in, as they have testified, and really have
14 complete and total unfettered access to all the
15 information and make the evaluation on how the
16 systems would combine and what capital work really
17 needs to be done based on the way they would operate
18 the business.

19 MR. YOUNG: So what happens if you get
20 the plan in six months after closing, so December
21 31st, and there are issues with it? I mean are you
22 expecting there would be a requirement that it be
23 approved by the Board?

24 MR. WINN: Well I think these conditions
25 have to be looked at as a totality and so that's one.

1 You know some sort of incentive to make sure that
2 capital spending conditions are complied with
3 understanding what the plan is. It's hard to answer
4 your question without understanding what our problem
5 with their capital plan would be. If it's some sort
6 of a technical issue, I'm unsure how that would work
7 out as far as if there was a technical concern, but
8 right now I believe that continued dialogue would be
9 the best alternative between the Department, the
10 Board, and the company at that point in time.

11 MR. YOUNG: So are you viewing this
12 three-year plan as more a planning document than
13 something that is just -- so that the Department has
14 some idea of what the investment strategy is going to
15 be?

16 MR. WINN: I would have to defer to our
17 consultants on the content of the three-year plan
18 because I'm not that familiar with capital spending
19 for telecommunications companies. So I'm not trying
20 to evade the question. It's just that if you were to
21 ask me about a distribution utility, I could tell you
22 within a reasonable amount of time what the
23 appropriate buckets of spending are. I can't tell
24 you that with this.

25 CHAIRMAN VOLZ: But I thought the idea

1 -- what's the plan going to be utilized for? How are
2 we going to use it? How is the Board and the
3 Department going to use the plan once they get a copy
4 of it?

5 MR. WINN: I would say to understand how
6 the capital plan is going to be used to address the
7 service quality issues.

8 CHAIRMAN VOLZ: And then if we're not --
9 if the Department is not happy with what's in the
10 plan, what are your next steps?

11 MR. WINN: Dialogue with the company as
12 far as I can tell.

13 MR. YOUNG: Okay. So I think your last
14 answer is what I was looking for which is really --
15 or what I'm trying to understand.

16 MR. WINN: Right.

17 MR. YOUNG: Not that there's a right or
18 wrong about this is that what you're looking for is
19 to see whether it is adequate to address some of the
20 service quality issues you're seeing in Vermont?

21 MR. WINN: Yes.

22 MR. YOUNG: Okay. That was part of what
23 I was trying to get at is what are we trying to
24 accomplish in getting this.

25 MR. WINN: Right.

1 MR. YOUNG: Okay. Next question. I
2 know Consolidated has agreed to this proposed
3 condition. I'm going to ask the question anyway.
4 You recommend that the Board continue to require a
5 separate subsidiary in Vermont; is that correct?

6 MR. WINN: Yes.

7 MR. YOUNG: Can you explain to me why
8 that's appropriate?

9 MR. WINN: Only I referred back to
10 previous decisions and that was a condition in a
11 previous decision, and the Vermont level of
12 information is useful for us to understand how the
13 assets are being utilized, what's being spent for the
14 assets. We have had a little bit of, you know, less
15 visibility into the Vermont level of spending than we
16 would have liked to have had in the initial filing
17 and in discovery, and so in order to make sure that
18 we have enough Vermont level information to proceed
19 with our responsibilities going forward.

20 MR. YOUNG: And you think you need a
21 separate subsidiary rather than just sort of
22 non-structural accounting requirements to do that?

23 MR. WINN: There are probably
24 alternatives to this, but without knowing how they
25 run their accounting system a subsidiary is just

1 consist with past decision.

2 MR. YOUNG: I think that's all the
3 questions I have. Thank you.

4 MS. FABRIZIO: Good morning.

5 MR. WINN: Good morning.

6 MS. FABRIZIO: In your prefiled
7 testimony on pages 9 to 12 -- I'm sorry, page 4 lines
8 9 to 12 and on page 5 lines 17 you are referring here
9 to an incentive mechanism regarding the corporate
10 dividend.

11 MR. WINN: Correct.

12 MS. FABRIZIO: Page 5 you talk about
13 this type of mechanism as a common industry metric.
14 Have you seen this in play?

15 MR. WINN: So a dividend restriction
16 itself is a common industry metric. Well the common
17 industry metric I think refers to the capital
18 spending as a percentage of revenue, but dividend
19 restrictions are also common in the utility industry
20 less so in the telecommunications, although even I
21 think in the 2011 10-Q for Consolidated -- or the
22 10-K there was a reference to a dividend restriction
23 from an Illinois subsidiary, but dividend
24 restrictions are there for debt covenants. Dividend
25 restrictions are used in the utility industry to make

1 sure that debt to equity ratio is in the right
2 balance for regulated companies. So it's not an
3 uncommon thing to do.

4 MS. FABRIZIO: Thank you. That's all I
5 had.

6 BOARD MEMBER HOFMANN: I'm going to
7 follow up on that just a little bit. When you were
8 responding to Mr. Burke's questions you said and the
9 Department would be willing to consider alternative
10 mechanisms.

11 MR. WINN: Right.

12 BOARD MEMBER HOFMANN: Did you have
13 something in mind?

14 MR. WINN: There are a wide -- there are
15 a wide range of alternatives. Dividend restriction
16 from a subsidiary, other sort of guarantees for
17 investment. It would be hard for me to pick out what
18 would be acceptable.

19 BOARD MEMBER HOFMANN: You did not have
20 something in mind?

21 MR. WINN: No. Nothing specific.

22 CHAIRMAN VOLZ: I just have one
23 question. Why aren't -- why isn't the performance
24 standard good enough to accomplish the same goals
25 that you would like -- that you use these mechanisms

1 for? In other words, if they are meeting all their
2 performance requirements, they have in our quality
3 assurance plan, why isn't that a good enough measure?

4 MR. WINN: I think based on past
5 experience the feedback I was getting from the rest
6 of the team was that we needed something that didn't
7 rely on a penalty -- compliance and penalty process
8 or the penalty may end up going to the state treasury
9 and not really work to the benefit of the customers
10 in the case, and so we're looking for something that
11 would give a strong incentive to management to make
12 investments that are necessary to improve service
13 quality.

14 CHAIRMAN VOLZ: If the -- -- if our
15 statute was changed so that penalties could be
16 utilized in a different way, would that help solve
17 your problem?

18 MR. WINN: I can't speak for the whole
19 Department, but for myself I think that would go in
20 the right direction. Yes.

21 CHAIRMAN VOLZ: Thanks. Any followup to
22 our questions?

23 MR. PHILLIPS: No.

24 CHAIRMAN VOLZ: Any redirect?

25 MR. BURKE: I have no redirect.

1 CHAIRMAN VOLZ: Thank you, Mr. Winn.
2 Thanks for coming and making yourself available.
3 It's helpful.

4 MR. WINN: You're welcome.

5 MR. BURKE: I'm going to call Clay
6 Purvis next.

7 BOARD MEMBER CHENEY: Good morning, Mr.
8 Purvis.

9 MR. PURVIS: Good morning.

10 CLAY PURVIS,

11 Having been duly sworn, testified
12 as follows:

13 DIRECT EXAMINATION AND REBUTTAL

14 BY MR. BURKE:

15 Q. Mr. Purvis, you have a copy of your prefiled
16 direct testimony in front of you, correct?

17 A. I do.

18 Q. Is there any need for any corrections or edits
19 or revisions to your direct testimony?

20 A. No.

21 MR. BURKE: At this point I would like
22 to move for the admission of Mr. Purvis's direct
23 testimony.

24 CHAIRMAN VOLZ: Okay. It's admitted.

25 (The Prefiled Testimony of Clay Purvis was admitted.)

1 BY MR. BURKE:

2 Q. And I have just a couple questions for you,
3 Mr. Purvis. You have reviewed the rebuttal testimony from
4 Mr. Shultz; is that correct.

5 A. Correct.

6 Q. And just for reference for the other attorneys
7 I'm referring to page 9 in lines 22 to 27 where Mr. Shultz
8 discusses his response to a recommendation from Carol
9 Flint on behalf of CAPI to maintain senior level employees
10 from the company in Vermont. Mr. Shultz stated that
11 Consolidated expects to have high level and senior level
12 management members with direct responsibility from Vermont
13 located in Maine and New Hampshire and also expects to
14 have senior regulatory staff with decision making
15 authority located within the State of Vermont, and you
16 have read this testimony, correct?

17 A. Yes.

18 Q. And you also heard Mr. Shultz's live testimony
19 yesterday, correct?

20 A. Yes.

21 Q. And can you just tell me your opinion as the
22 Director of Telecommunications at the Department of Public
23 Service whether that is an adequate regulatory structure
24 or management structure, excuse me, for you to deal with
25 the company?

1 A. I think overall I do agree that would be
2 adequate. I think after hearing the testimony yesterday
3 our concern or primary concern is that we have someone in
4 Vermont who knows the regulatory environment, the network,
5 knows the business, knows the history of FairPoint and the
6 network, the entire last century of events, and how the
7 network's been built. So I think our concerns right now
8 are about whether the folks coming in will have that
9 background knowledge. So it would be our recommendation
10 that we have someone in Vermont that -- that's available
11 and has the expertise.

12 MR. BURKE: Those are the only questions
13 I have.

14 CHAIRMAN VOLZ: Okay. I guess I just
15 have a question about that. So why is it important
16 that they are in Vermont as long as they have the
17 knowledge of our system and can respond to a request
18 or questions?

19 MR. PURVIS: Probably try to walk that
20 back a little bit. I don't know being in Vermont is
21 necessarily the most important thing. I mean being
22 within reach, being available to the Department.

23 CHAIRMAN VOLZ: And having the
24 knowledge.

25 MR. PURVIS: And having the knowledge,

1 yes. That's the primary concern for us.

2 CHAIRMAN VOLZ: Okay. Thank you.

3 MR. BURKE: I'm done questioning so he's
4 available.

5 CHAIRMAN VOLZ: Why don't we do the
6 cross examination. I was just following up on that
7 one point. Do we have cross for this witness?

8 MR. PHILLIPS: I just have one cross for
9 Mr. Purvis.

10 CHAIRMAN VOLZ: Would you like --

11 MS. BOUFFARD: I had no questions.

12 Thank you.

13 CHAIRMAN VOLZ: Go ahead, Mr. Phillips.

14 CROSS EXAMINATION

15 BY MR. PHILLIPS:

16 Q. Mr. Purvis, would you please turn to page 4 of
17 your testimony? I'm looking at lines 5 and 6 --

18 A. Okay.

19 Q. -- where you say quote this transaction, along
20 with the imposition of recommendations made by the
21 Department in Docket 8701, should lead to improvements in
22 service quality especially in areas where FairPoint is the
23 only service provider. Unquote. That's your testimony?

24 A. Yes.

25 Q. I can't quite see your face.

1 A. Sorry.

2 Q. Maybe I'll move over one chair. That's your
3 testimony?

4 A. Yes.

5 Q. And I note that a couple of the other
6 Department witnesses, namely Ms. Flint and Mr. Mills, make
7 similar references in their testimony to quote the
8 Department's recommendations in Docket 8701 and you're
9 familiar with their testimony?

10 A. Yes.

11 Q. Now the Board is presently deliberating on its
12 decision in Docket 8701. Isn't that right?

13 A. Yes.

14 Q. They haven't made a final decision yet, have
15 they?

16 A. No they have not.

17 Q. And so the Department's recommendations have
18 not been adopted by the Board; is that right?

19 A. Correct.

20 Q. And it's your understanding that if the Board
21 approves this transaction that Consolidated will be bound
22 to the same degree as FairPoint is now bound by any ruling
23 that the Board makes in Docket 8701; is that correct?

24 A. That's my understanding.

25 Q. So in your testimony you're not asking the

1 Board in this docket to decide an issue that's presently
2 pending in Docket 8701; is that right?

3 A. I think that -- I think that we're renewing
4 our recommendation that we made in 8701.

5 CHAIRMAN VOLZ: Let me put it another
6 way. You're saying, if I understand what you're
7 saying here, is that in your view in order for you to
8 find this transaction in this docket for the sale to
9 Consolidated to be in the public good we shouldn't be
10 imposing the recommendations that you made in Docket
11 8701?

12 MR. PURVIS: Yes.

13 CHAIRMAN VOLZ: Okay. So if in fact we
14 end up not imposing those exact recommendations and
15 we propose some different ones based on what our
16 decision is in that case, then that would -- that
17 could alter your view about this transaction?

18 MR. PURVIS: Yes it could alter my view.

19 CHAIRMAN VOLZ: Okay.

20 BY MR. PHILLIPS:

21 Q. And just so I'm clear the evidentiary record
22 in Docket 8701 is closed; is that correct?

23 A. That is my understanding.

24 Q. All right. So the parties in that case don't
25 have an opportunity to respond to your testimony here; is

1 that right?

2 A. I suppose not unless these issues are brought
3 in this docket.

4 MR. PHILLIPS: Thank you. I have
5 nothing further for Mr. Purvis.

6 CHAIRMAN VOLZ: Thanks. Mr. Rubin, do
7 you have any questions for this witness?

8 MR. RUBIN: No thank you, Mr. Chairman.

9 MR. YOUNG: Good morning, Mr. Purvis.

10 MR. PURVIS: Good morning.

11 MR. YOUNG: Let me start you at page 2
12 of -- well of your testimony line 9 you state that
13 you expect a healthier better managed company will
14 lead to greater investments and improved service
15 quality. That's a paraphrase; is that correct?

16 MR. PURVIS: Yes.

17 MR. YOUNG: So are there specific
18 commitments that Consolidated has made that would
19 lead you to the conclusion that there would be
20 improved service quality?

21 MR. PURVIS: Well, you know, through the
22 discovery and the testimony and the testimony we
23 heard yesterday, you know, that they appear to have
24 ideas about how to manage the company better, make it
25 more efficient. So they will be financially

1 healthier which will allow them the ability to make
2 investments and to better handle challenges that are
3 facing the company today.

4 MR. YOUNG: Have you seen the FCC's
5 order approving the transaction that was referenced
6 yesterday?

7 MR. PURVIS: I have not reviewed that.

8 MR. YOUNG: And, you know, recognizing
9 that this is based upon a different record than we
10 have here let me just read you something on this
11 topic and ask you to react. The FCC states at
12 paragraph 23 because the applicant failed to provide
13 firm service quality commitments, however, the amount
14 of anticipated service quality improvements that are
15 likely to result from the instant transaction are
16 difficult to weigh or quantify, and thus we only
17 credit them in the minimal public interest benefit.
18 Would you agree with that in the context of Vermont?

19 MR. PURVIS: Yes. I think from what we
20 heard yesterday, you know, until they have an
21 opportunity to adequately review everything and run
22 the company for a while, you know, I think that's a
23 fair statement.

24 MR. YOUNG: Should there be more firm
25 commitments and, if not, why not?

1 MR. PURVIS: Well I think there's a
2 process in place in Vermont for handling service
3 quality issues. They would -- they will be bound by
4 service quality metrics. The Department's asked for
5 a minimum level of investment -- reinvestment back
6 into the Vermont network. I think those things would
7 be an adequate starting place for addressing the
8 service quality issues and the Department can avail
9 itself of a service quality investigation in the
10 future if the company's not meeting the service
11 quality metrics.

12 MR. YOUNG: The Department's recommended
13 --

14 CHAIRMAN VOLZ: If I can follow up on
15 just that one point --

16 MR. YOUNG: Please.

17 CHAIRMAN VOLZ: -- so just to come at
18 this a slightly different way you wrote the sentence
19 that says the merger should result in a healthier
20 better managed company which should lead to greater
21 investments in the Vermont network and improve
22 service quality for Vermont businesses and
23 residential consumers. So what did you have in mind?
24 What was your basis for making that statement?

25 MR. PURVIS: I think, you know, the

1 lower debt service with new management, they are
2 creating better efficiencies in the system in the
3 business, they will have the opportunity to make
4 those investments. I think that's where I'm coming
5 from.

6 CHAIRMAN VOLZ: Great. Thanks.

7 MR. YOUNG: On page 3 of your testimony,
8 and here you're referencing part of Mr. Jeanson's
9 testimony and if he's the right person please let me
10 know, but you state -- you have the provision in here
11 about reinvesting at least 14 percent of the annual
12 revenue back into the network. Do you see that?

13 MR. PURVIS: Yes.

14 MR. YOUNG: And my understanding is
15 Consolidated has agreed to that. Is that your
16 understanding as well?

17 MR. PURVIS: From the testimony I heard
18 yesterday that is my understanding.

19 MR. YOUNG: In coming up with the 14
20 percent number was that based upon an assessment of
21 what was needed in Vermont?

22 MR. PURVIS: Probably would be best to
23 direct that question to Mr. Jeanson. My
24 understanding is that number is based partly on past
25 investments, but I think it would probably be

1 appropriate to ask him that question.

2 MR. YOUNG: And maybe you can help me
3 with this one other thing that I saw in the FCC order
4 that I hadn't heard before and I would like your
5 reaction to. Applicant states Consolidated provides
6 at least 20 megabits per second download speeds to 90
7 percent of its broadband customers and that it plans
8 to provide the same level of service in the FairPoint
9 service areas. Applicants do not provide a specific
10 time frame for upgrading broadband services in the
11 current FairPoint service area to 20 megabits per
12 second to 90 percent of the customers. Are you aware
13 of that plan and has the Department considered --
14 talked to Consolidated about such a goal?

15 MR. PURVIS: I do not believe we have
16 talked to Consolidated about that goal specifically.
17 I think that that's going to be a tall order for them
18 to accomplish in Vermont. It's a very exciting thing
19 if they are able to achieve that, but that was not
20 something that I would expect them to accomplish in
21 the near term.

22 MR. YOUNG: Thank you. I think that's
23 all the questions I have.

24 BOARD MEMBER HOFMANN: So let me just
25 follow up. So that isn't one of the commitments they

1 have made to you just to be really clear?

2 MR. PURVIS: Correct. We have gotten --
3 we've received no commitments on broadband.

4 MS. FABRIZIO: One quick wrap up with
5 respect to the earlier discussion on the management
6 discussion in Vermont. You heard yesterday's
7 testimony from Consolidated?

8 MR. PURVIS: Yes I did.

9 MS. FABRIZIO: Does that designation of
10 Mr. -- does Consolidated's designation of Mr. Lunny
11 as a high level management person in Vermont satisfy
12 the Department's concerns?

13 MR. PURVIS: And please remind me is he
14 the CIO for Vermont?

15 MS. FABRIZIO: That's a good question.
16 That was kind of a followup question from me to you.
17 My understanding is he is relatively high level in
18 the company and he's based in South Burlington, but
19 that's all I know.

20 MR. PURVIS: I have never met Mr. Lunny
21 before. We've -- in the past obviously we've dealt
22 with Ms. Fastiggi, the former Vermont President. Her
23 experience in the company, 20 years of experience
24 within FairPoint starting from the bottom and working
25 her way up, her knowledge of regulatory matters, you

1 know, she knew the 7.6 rules inside and out. You
2 know that's the kind of person that we expect from
3 the company. Mr. Austin who is now the regulatory
4 affairs manager, if I have that title correct, for
5 Vermont who I think also has a lot of that
6 experience. Those kinds of people. Even the folks
7 that CAPI deals with on a daily basis who are also
8 located in South Burlington, you know, those are the
9 kinds of people that we're looking for.

10 MS. FABRIZIO: Thank you.

11 CHAIRMAN VOLZ: I had a question just
12 for the record. A couple different witnesses have
13 used this expression and it may be defined somewhere
14 already, but just to make sure you referred to at the
15 bottom of page 3, the very bottom, in addition
16 Consolidated intends to introduce over-the-top video
17 service. What is over-the-top video service?

18 MR. PURVIS: That is video service that
19 runs over the public internet network. So Netflix,
20 for instance, is an example of over the top. You
21 know there's really no managed network there.
22 There's no quality of service. Your bits are
23 dropped, it buffers from a practical standpoint, from
24 a consumer standpoint. Netflix, you know, is an
25 over-the-top video service. I believe Hulu, those

1 kinds of services.

2 CHAIRMAN VOLZ: I'm not familiar with
3 those because at my location I can't -- my system
4 isn't fast enough to get those.

5 MR. PURVIS: Well when you get 20 megs
6 some day --

7 CHAIRMAN VOLZ: Thank you.

8 MS. BOUFFARD: I have a few follow-up
9 questions if I may.

10 CHAIRMAN VOLZ: Sure.

11 CROSS EXAMINATION

12 BY MS. BOUFFARD:

13 Q. Good morning.

14 A. Good morning.

15 Q. Mr. Purvis, as long as Consolidated makes
16 available management personnel to the Department that is
17 readily available in the New England area and has business
18 experience, knowledge of the Vermont history and
19 operations, that will satisfy the Department's concerns
20 with respect to having access to Consolidated management,
21 correct?

22 A. Correct.

23 Q. And with respect to the questions earlier
24 about Docket 8701 the Department is not recommending --
25 the Department is not requesting that the Board issue an

1 order in Docket 8701 before it issues an order in this
2 proceeding, correct?

3 A. I think that's correct. I mean I think we
4 want our recommendations -- in order to find this in the
5 public good I mean I think we're asking for those
6 recommendations to be adopted. How they do that I would
7 defer to the Board.

8 Q. And you understand that Consolidated has
9 already committed to adhering to the service quality
10 requirements that apply to FairPoint currently as well as
11 the Board's order in Docket 8701, correct?

12 A. Yes.

13 Q. So just to clarify then in terms of timing, if
14 the order in 8701 comes following an order with respect to
15 this transaction and Consolidated has agreed to comply
16 with that order, that should satisfy the Department's
17 concerns, right?

18 A. Yes.

19 MS. BOUFFARD: Thank you.

20 CHAIRMAN VOLZ: Any other followup to
21 our questions?

22 MR. PHILLIPS: No.

23 CHAIRMAN VOLZ: Any redirect?

24 MR. BURKE: I might have some redirect.

25 I think Ms. Bouffard you helped me clear up the 8701

1 issues so thank you.

2 REDIRECT EXAMINATION

3 BY MR. BURKE:

4 Q. I do want to ask one followup question on
5 8701. You were not a testifying witness in 8701; is that
6 correct?

7 A. That's correct.

8 Q. And -- but you have general familiarity with
9 the general recommendation?

10 A. Yes.

11 Q. And what was the Department's primary concern
12 in 8701 just if there's one issue that we were looking at?

13 A. Service quality for captive customers, folks
14 that don't have competitive choice to ensure that the
15 quality service metrics are met, and I believe our
16 recommendation asked for enhanced bill credits is the term
17 we used.

18 Q. And what would you consider -- assuming this
19 merger is approved and Consolidated comes in and takes
20 over FairPoint what will the Department's primary concern
21 going forward be?

22 A. I think the same concerns. Ensuring that
23 captive customers have access to quality telephone
24 service.

25 Q. And you've worked with the Department's

1 consultants and you have reviewed discovery and you
2 participated in the preparation of testimony for this
3 docket; is that correct?

4 A. Yes.

5 Q. And would you say your recommendation is based
6 in part on your view of Consolidated's management and
7 operations versus what we've experienced with FairPoint in
8 the past? Maybe I can state that differently. Do you
9 believe that Consolidated will be a better managed company
10 than FairPoint?

11 A. Yes.

12 Q. And that framed, in part, your recommendation?

13 A. Yes.

14 Q. And you think that the company will be better
15 capitalized than what FairPoint currently is?

16 A. Yes.

17 Q. So you think there's, if nothing else, at
18 least an opportunity for better resources and improvement?

19 A. Absolutely. Yes

20 Q. But in your testimony you do acknowledge
21 there's risk associated with this transaction; is that
22 correct?

23 A. Correct.

24 MR. BURKE: I think that's all.

25 CHAIRMAN VOLZ: Thanks. For -- just for

1 the record define what you mean by captive customer.

2 MR. PURVIS: Sure. A captive customer
3 in my view is a customer who does not have access to
4 competitive choice. So their only telephone option
5 right now is FairPoint.

6 CHAIRMAN VOLZ: So when you say
7 telephone do you mean landline option or if they have
8 a cell phone option then they are not captive?

9 MR. PURVIS: I think landline. I don't
10 think we're counting cell phone service.

11 CHAIRMAN VOLZ: Okay. So if they have
12 cable service like that would allow them to get
13 landline through their cable -- for the cable system
14 that would qualify as a non-captive customer?

15 MR. PURVIS: Yes.

16 CHAIRMAN VOLZ: If they had that option?

17 MR. PURVIS: Yes.

18 CHAIRMAN VOLZ: Okay. Thanks. Any
19 other questions for this witness? Thank you.

20 MR. PURVIS: Thank you very much.

21 MR. BURKE: So my next witness is going
22 to be Carol Flint.

23 BOARD MEMBER CHENEY: Good morning, Ms.
24 Flint.

25 MS. FLINT: Good morning.

1 CAROL FLINT,

2 Having been duly sworn, testified

3 as follows:

4 DIRECT EXAMINATION

5 BY MR. BURKE:

6 Q. Ms. Flint, you have in front of you a copy of
7 your direct testimony; is that correct?

8 A. Yes.

9 Q. And you also should have the exhibits marked
10 DPS CF 1 through DPS CF 8; is that correct?

11 A. Yes.

12 Q. Is there a need for you to change any of your
13 testimony or make any corrections to the testimony or the
14 exhibits?

15 A. Not that I'm aware of.

16 MR. BURKE: Mr. Chairman, at this point
17 I would like to move for Ms. Flint's direct testimony
18 and exhibits CF 1 through CF 8 to be admitted.

19 CHAIRMAN VOLZ: Okay. They are
20 admitted. Thank you.

21 (The Prefiled Testimony of Carol Flint
22 was admitted into the record.)

23 <http://epsb.vermont.gov/?q=download/114952/27345>

24

25

1 (Exhibits marked DPS-CF 1-8 were admitted
2 into the record.)

3 BY MR. BURKE:

4 Q. Ms. Flint, I have just a couple questions for
5 you, and my first one is basically the same question that
6 I had for Clay Purvis which is based on your review of Mr.
7 Shultz's rebuttal testimony and what you heard yesterday
8 are you satisfied from the perspective of the Director of
9 CAPI with how the company will be managed in Vermont if
10 the merger is approved?

11 A. I'm satisfied with the management of the
12 company. However, I had concerns that through the course
13 of yesterday's testimony it became much more apparent to
14 me that certain expertise about Public Service Board rules
15 might be lacking with the lineup of managers that were
16 offered to us, and so, for example, I'm concerned about
17 potential loss of the regulatory affairs manager. I
18 hadn't really fully appreciated the depth of the potential
19 cuts until I heard that discussion, and CAPI regularly
20 needs to escalate cases to Eric Smith who serves in that
21 capacity currently and that level of expertise is what I
22 would be concerned with losing.

23 Q. And so I think Ms. Bouffard asked Mr. Purvis
24 does it matter to you if the specific employee is located
25 in Vermont versus say New Hampshire? Is that particularly

1 important to you?

2 A. That's not as important to me as the quality
3 of the response and the quality of competency and
4 expertise of the incumbent in the position.

5 Q. So summarizing what I have heard today so you
6 feel it would be important that the regulatory affairs
7 person be maintained at least for some period of time
8 after the merger?

9 A. I think it's important that that level of
10 expertise be maintained by Consolidated and that position
11 that is directly responsible for providing good quality
12 customer service to Vermont consumers be maintained. Yes.

13 MR. BURKE: That's all I have for
14 rebuttal testimony.

15 CHAIRMAN VOLZ: Thank you.

16 MR. BURKE: Ms. Flint is available for
17 cross examination.

18 CHAIRMAN VOLZ: Ms. Bouffard.

19 CROSS EXAMINATION

20 BY MS. BOUFFARD:

21 Q. MS. Flint, as long as Consolidated does have
22 an individual with expertise within the area of regulatory
23 affairs that will satisfy CAPI, correct, as long as they
24 have specific Vermont expertise?

25 A. Specific Vermont expertise and familiarity

1 with Board rules and understanding of issues; topography,
2 the rural nature of the enterprise, all of those things
3 that make Vermont special, yes.

4 Q. And that's what CAPI is specifically looking
5 for?

6 A. Yes.

7 Q. And as long as Consolidated does have an
8 individual who can satisfy those items CAPI will be
9 satisfied; is that right?

10 A. CAPI and I think Mr. Purvis spoke to the
11 Department overall's concerns.

12 Q. Thank you.

13 A. You're welcome.

14 CHAIRMAN VOLZ: That's all you have?

15 MS. BOUFFARD: Yes that's it. Pardon
16 me.

17 CHAIRMAN VOLZ: That's all right. Mr.
18 Phillips.

19 MR. PHILLIPS: I just have a couple
20 questions.

21 CROSS EXAMINATION

22 BY MR. PHILLIPS:

23 Q. Good morning, Ms. Flint.

24 A. Good morning.

25 Q. My questions also concern Docket 8701 as they

1 did for Mr. Purvis and you heard Mr. Purvis's testimony.
2 Your prefiled testimony goes a little further than Mr.
3 Purvis's, and so I just want to ask you about the
4 difference if I could, and so this is on page 15 of your
5 testimony.

6 A. I'm sorry. Page what?

7 Q. 15.

8 A. 15. Okay.

9 Q. Lines -- starting on line 7 you say there
10 quote CAPI also agrees with the testimony of Mr. Mills
11 that Consolidated be required to abide by the Department's
12 recommendations in Docket 8701 regarding Fairpoint's
13 service quality metric reporting requirements and bill
14 credit enhancements, with potential review of these
15 metrics if Consolidated can demonstrate meaningful
16 improvement of service quality performance. Unquote. Is
17 that your testimony?

18 A. That is.

19 Q. And I just want to -- do you have the
20 testimony of Mr. Mills on the stand with you?

21 A. I'm sorry I do not.

22 MR. BURKE: Is it okay if I approach?

23 CHAIRMAN VOLZ: Yes.

24 BY MR. PHILLIPS:

25 Q. Do you have that testimony now, Ms. Flint?

1 A. Yes. It is Mr. Mills' testimony.

2 Q. Would you please turn to page 27 of Mr. Mills'
3 testimony?

4 CHAIRMAN VOLZ: And, Mr. Phillips, you
5 will let us know if we're getting to a confidential
6 section of the testimony.

7 MR. PHILLIPS: There's nothing
8 confidential in my questions.

9 CHAIRMAN VOLZ: Okay. Great.

10 BY MR. PHILLIPS:

11 Q. And if you could look at line 15 of his
12 testimony on page 27?

13 A. Yes.

14 Q. He says there quote the proposed merger does
15 not affect my opinion on those proposed conditions?

16 A. Yes.

17 Q. Referencing the Docket 8701 recommendations,
18 but if they are adopted by the Board, I believe that it
19 would be appropriate to reevaluate those conditions if
20 Consolidated can demonstrate meaningful improvement of
21 service quality performance in Vermont within three to
22 five years of completion of the merger. Unquote. Do you
23 see that testimony?

24 A. I do.

25 Q. Is that the testimony that you were

1 referencing when you said that you agree with Mr. Mills
2 that Consolidated should be required to abide by the
3 Department's recommendations in Docket 8701?

4 A. I think they are two things happening here
5 that you're astutely pointing out. The first is I'm well
6 aware Consolidated made that assurance and I'm comfortable
7 -- CAPI is comfortable with that and we trust that it will
8 take place and we're supporting Mr. Mills' recommendations
9 here. Does that --

10 Q. I guess so. I mean what I'm trying to get at
11 is I don't see in Mr. Mills' statement there that he's
12 asking the Board to impose the Department's
13 recommendations on Consolidated. What I see there is that
14 he's saying that if those recommendations are adopted by
15 the Board, then Consolidated would be bound by them and
16 then they might be able to be reevaluated if they can
17 demonstrate meaningful service quality improvements?

18 A. I think that I'm quite comfortable and
19 satisfied with the parallel processes and Consolidated's
20 assurances that they will abide by the Board rules. I'm
21 not trying to introduce anything new from the 8701
22 process. Is that what you're looking for?

23 Q. Yes. Thank you very much. I have no further
24 questions.

25 CHAIRMAN VOLZ: Mr. Rubin.

1 MR. RUBIN: No questions. Thank you.

2 MR. BURKE: I did have one issue that
3 Ms. Flint wanted to address that I forgot to ask her
4 about so I apologize.

5 CHAIRMAN VOLZ: Sure. Not a problem.

6 BY MR. BURKE:

7 Q. Ms. Flint, in your direct testimony you
8 referred to procedures that FairPoint has agreed to with
9 the Department regarding repairing for out-of-service
10 conditions for customers that have identified themselves
11 as having medical conditions, and Consolidated did not
12 address this issue in the rebuttal testimony, but can you
13 just provide some context for that recommendation for the
14 Board?

15 A. Following the strike and out-of-service issues
16 there was a side agreement between the Department and
17 FairPoint, and in particular that side agreement addressed
18 consumers who have serious medical conditions, and there's
19 one place where I have -- I have a minor concern about
20 Consolidated's escalation process for trouble tickets and
21 it's for those people who have serious medical concerns
22 that Consolidated requires a physician certificate in
23 advance. However, FairPoint has been providing service to
24 those folks in an escalated way without receiving that
25 certificate in advance, and for outages and for folks who

1 are in rural areas what don't have access to another
2 telephone this condition could be problematic. So I just
3 wanted to raise awareness about that particular concern.

4 BOARD MEMBER HOFMANN: Ms. Flint, is
5 that a telephone call is good enough, it doesn't have
6 to be an actual certificate sent?

7 MS. FLINT: That's right. Just making
8 the company aware there is a serious medical
9 condition in the household should be sufficient to
10 escalate that trouble ticket. Now I certainly
11 understand the company might want to challenge that
12 if it's abused and there is a process for doing that
13 in our -- because I know Board rules so this would be
14 reasonable also to consider.

15 MR. BURKE: I just -- one followup.

16 BY MR. BURKE:

17 Q. Just to be clear this is an agreement that
18 FairPoint has made in -- for lack of a better word in a
19 side letter that was entered into a regulatory proceeding
20 and it's not a part of any existing Board order; is that
21 correct?

22 A. That's right.

23 CHAIRMAN VOLZ: Any followup or recross
24 in light of the new questions that were just asked?

25 MS. BOUFFARD: No cross.

1 CHAIRMAN VOLZ: Okay. Thanks.

2 MR. YOUNG: Just to be clear is the
3 letter you're talking about the one produced in your
4 testimony CF 7?

5 MS. FLINT: Yes. Thank you.

6 MR. YOUNG: I had one other area that I
7 had a question about in your testimony. On page 4 --
8 excuse me. I unfortunately have multiple versions of
9 your testimony. I have to figure out where -- on
10 page 4 of your testimony and going on to page 5 you
11 describe some of your efforts to look into
12 Consolidated's reputation. Do you see that?

13 MS. FLINT: Uh-huh.

14 MR. YOUNG: And what you describe is
15 shall we say limited response from other states; is
16 that correct?

17 MS. FLINT: That's true.

18 MR. YOUNG: Are you asking the Board to
19 draw any inferences from the limited response?

20 MS. FLINT: No. Just only wanted you to
21 know we tried.

22 MS. FABRIZIO: Can I interject just to
23 follow up on that? Did you request copies of those
24 reports from the company itself?

25 MS. FLINT: The reports that are

1 referenced in my testimony?

2 MS. FABRIZIO: The service.

3 MS. FLINT: The service quality reports
4 were acquired by our expert witnesses and analyzed by
5 them. So we also reviewed that information and
6 discussed it.

7 MS. FABRIZIO: It sounded -- my
8 understanding is that you got a very poor response
9 from the survey so you didn't have a whole lot of
10 information to analyze.

11 MS. FLINT: In addition to the survey
12 responses that I thought were fairly well responded
13 to by our expert witnesses, CAPI also did some
14 querying in addition to that and we got very little
15 response, but our expert witnesses got a little bit
16 better -- a fair response to their survey mechanism.

17 BOARD MEMBER HOFMANN: Ms. Flint, when
18 you're on one of the SNAP calls you describe in your
19 testimony when you make inquiry about somebody who
20 may have a reputation across the United States do you
21 get more of a response?

22 MS. FLINT: One of my staff made that
23 inquiry, not I personally, and however in other --
24 for other inquiries that we have made like that when
25 there have been deep problems or issues that people

1 want to talk about, they are shared -- they will
2 share that information. In this case we did not
3 receive anything.

4 MR. YOUNG: So I had one other quick
5 area. Page 14 of your testimony please, and this is
6 a follow-on to page 13 where you're talking about
7 robo calls. Do you see that?

8 MS. FLINT: Yes.

9 MR. YOUNG: And in line 4 on page 14 you
10 state you don't have a specific recommendation for
11 this issue at this time. Have you thought more? Do
12 you have any recommendations at the present time or
13 is this where things still sit?

14 MS. FLINT: I wanted to raise the issue
15 because it's such an important issue to Vermont
16 consumers. I felt that it at least merited a
17 paragraph in this testimony. However, I'm well aware
18 of the technological restraints that the
19 telecommunications provider community has to deal
20 with around software development and how to solve
21 this -- I don't even know what adjective to
22 appropriately use to describe what we're calling, but
23 it's like pestilence at this point.

24 BOARD MEMBER HOFMANN: Does an app like
25 nomorobo not work with the FairPoint -- I'm just

1 picking out one. I know there's a number of apps.

2 MS. FLINT: That's my understanding and
3 I'm only halfway through signing up myself for
4 nomorobo so I'm certainly not an expert on it, but I
5 understand it will work on the iPhone platform and it
6 will work on the VoIP platform. So for me personally
7 it will be a boon because of the service providers I
8 choose to use, but that technology is not directly
9 compatible and you could better direct that to people
10 who have more technological expertise than I do.

11 MR. YOUNG: Thank you. That's all the
12 questions I had.

13 BOARD MEMBER HOFMANN: Ms. Flint, if you
14 could turn to page 7 -- sorry -- of your testimony at
15 the top of the page it says that Consolidated
16 indicated at least for the next five years it
17 continued -- it plans to continue to meet the
18 eligible telecommunications carrier requirements, but
19 then when I looked at the actual response you got in
20 discovery it actually says Consolidated has no such
21 plans at this time which was whether to change their
22 ETC status. Does the no such plans at this time have
23 you concerned or have they committed to you that for
24 five years ETC status will remain?

25 MS. FLINT: I think that we got a

1 response to a further question that said three years,
2 but I can't recall the exact specifics of that.

3 BOARD MEMBER HOFMANN: So you feel you
4 have a commitment for at least three years that they
5 are not going to back away from their ETC status?

6 MS. FLINT: I am satisfied that they are
7 continuing to support that for a reasonable period of
8 time. There's a lot moving in that world right now.

9 BOARD MEMBER HOFMANN: Thank you.

10 MS. FABRIZIO: I just had a quick --
11 going back to the business reputation discussion that
12 you have in your testimony at pages 4 to 5, for the
13 clarity of the record really you discuss in lines 15
14 through 18 40 out-of-service reports received or 40
15 instances of non-compliance with out-of-service
16 metrics I should say in a five-year period I believe
17 which is about 60 months. Does that 40 translate
18 into 40 months out of 60 months in which the company
19 was not in compliance with the metric? Just trying
20 to understand how to read that version.

21 MS. FLINT: I'm just reading through
22 this.

23 MS. FABRIZIO: Sure.

24 MS. FLINT: So beginning on line 15 in
25 the time period observed 40 out-of-service reports

1 during that same time period, and answer time 14,
2 totaling up to the 54.

3 MS. FABRIZIO: And 40 in this sentence
4 means 40 months out of the --

5 MS. FLINT: No. 40 instances. 54
6 reported instances in the time period reviewed.

7 MS. FABRIZIO: This metric is only 40
8 times in five years?

9 MS. FLINT: Yes.

10 MS. FABRIZIO: But that --

11 MS. FLINT: Reported instances.

12 MS. FABRIZIO: Reported instance of
13 outage?

14 MS. FLINT: Reported instance of
15 out-of-service, yes, and so depending on what their
16 definition is for out-of-service, how long that
17 duration is, I can't go any deeper than that.

18 MS. FABRIZIO: So my understanding is
19 way off base then. I read it as 40 times the report
20 didn't meet the monthly metric.

21 MS. FLINT: No. No.

22 MS. FABRIZIO: Thank you.

23 MS. FLINT: That's not how I read the
24 report.

25 MS. FABRIZIO: That's very helpful.

1 MS. FLINT: Okay.

2 CHAIRMAN VOLZ: Anything else? Any
3 followup to our questions?

4 MS. BOUFFARD: No.

5 MR. BURKE: No. I have one redirect
6 question.

7 CHAIRMAN VOLZ: Sure.

8 REDIRECT EXAMINATION

9 BY MR. BURKE:

10 Q. Following up on what Mr. Young was asking
11 about robo calls, have you been working with any other
12 agencies within state government on robo calls?

13 A. Yes.

14 Q. And which agency is that?

15 A. The Attorney General's Office.

16 Q. And have you had meetings with them?

17 A. Yes.

18 Q. And so this is an issue that you're actively
19 investigating some sort of remedy, not necessarily before
20 the Public Service Board, but it's on your radar?

21 A. It's definitely on our radar. The level of
22 activity is somewhat dictated by the available solutions
23 and the restrictions of law. I mean we have watched the
24 bill that's moved through the Legislature this year and we
25 are very concerned for Vermont consumers.

1 MR. BURKE: That's all.

2 CHAIRMAN VOLZ: Thanks. Okay. Thank
3 you.

4 MS. FLINT: You're welcome.

5 CHAIRMAN VOLZ: I think we'll take a
6 10-minute break and we'll resume when we get back.

7 (Recess.)

8 CHAIRMAN VOLZ: We're back on the record
9 after our break. We're ready for the next witness.

10 MR. BURKE: The Department is going to
11 call Curtis Mills.

12 BOARD MEMBER CHENEY: Good morning, Mr.
13 Mills.

14 MR. MILLS: Good morning.

15 CURTIS MILLS,

16 Having been duly sworn, testified

17 as follows:

18 DIRECT EXAMINATION AND REBUTTAL

19 BY MR. BURKE:

20 Q. Mr. Mills, do you have in front of you a copy
21 of your direct prefiled testimony and copies of exhibits
22 DPS WCM 1 through DPS WCM 11?

23 A. I do.

24 Q. And is there a need to make any corrections or
25 changes to any of your testimony?

1 A. No. No changes.

2 MR. BURKE: Mr. Chairman, at this point
3 I would like to move for the admission of Mr. Mills'
4 direct testimony and exhibits DPS WCM 1 through DPS
5 WCM 1.

6 CHAIRMAN VOLZ: They are admitted.

7 (The Prefiled Testimony of Curtis Mills
8 was admitted into the record.)

9 <http://epsb.vermont.gov/?q=download/11495627345>

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1 (Exhibits marked DPS WCM 1-11 were
2 admitted into the record.)

3 BY MR. BURKE:

4 Q. Mr. Mills, I want to ask you a question and
5 it's come up a little bit this morning about
6 recommendations made in Docket 8701, and you were a
7 testifying witness on behalf of the Department in that
8 proceeding, correct?

9 A. I was.

10 Q. And your testimony in this particular docket
11 was not intended to recommend that any conditions that you
12 had suggested in 8701 be mandated as part of the merger?

13 A. No.

14 Q. You were just stating that your
15 recommendations from 8701 would not be changed just in
16 light of the fact the merger had been announced?

17 A. Correct.

18 Q. So the only other question I have for you, Mr.
19 Mills, you touch on this a little bit in your direct
20 testimony, but can you explain for the Board in some
21 detail the relationship between capital expenditures and
22 service quality and maintenance of network generally?

23 A. Yes. It would -- that relationship would vary
24 by circumstance, location, equipment, et cetera, et
25 cetera. In the case of Vermont, and this is just my

1 opinion from the information and data that we've been
2 provided, but I do think there's a direct relationship
3 between CapEx and maybe OpEx, some maintenance dollars if
4 they are not capitalized, to what we are referring to as
5 service quality, but it may be worth noting that when I
6 say that I'm really referring to reliability, what I might
7 call service reliability. It's not so much a quality
8 matter as it affects the out-of-service conditions that we
9 -- that we have been discussing in testimony and so on and
10 so forth.

11 So in the case of Vermont, for example, in Mr.
12 Wierson's direct testimony he describes the data samples
13 that we received of NOC incidents that -- network
14 operation center incidents and trouble reports for a
15 three-month period of May, June, July 2016. 38 percent of
16 the NOC incidents had to do with power outages. 52
17 percent of the trouble reports from that period had to do
18 with cable problems. So we don't have updated enough data
19 to jump in and say this is exactly what the issues are,
20 but that certainly suggests in the case of power outages
21 it could be batteries, it could be generators, it could be
22 any number of things. In the case of cable problems for
23 the trouble it could be anything, but it's not
24 inconsistent with the suggestion that any of the paper
25 sheath cables, for example, that are at newest 35 years

1 old may be problematic. So in those cases CapEx might be
2 the solution. Cap-Ex isn't the solution for labor
3 problems probably, but for equipment upgrades and heavy
4 maintenance yes.

5 Q. And when you say labor problems you mean to
6 imply?

7 A. Shortages. Sorry.

8 Q. So you have worked with Mr. Jeanson
9 extensively in preparing testimony in this docket; is that
10 correct?

11 A. Yes.

12 Q. And you're familiar -- I know he made the
13 recommendation initially about a capital reinvestment, but
14 you discussed that with him and you understand the basis
15 for why that recommendation was made in the first place?

16 A. Could you rephrase that?

17 Q. You understand the logic behind why the
18 Department is requesting a reinvestment requirement in the
19 first place?

20 A. Yes.

21 Q. And can you speak generally to why that was
22 done in terms of in the context of the merger?

23 A. Yes. From my perspective, so I think it's
24 general, but it was to assure, and as I discussed in my
25 direct testimony to the -- in answer to the question what

1 risks may be associated with -- on the service offering
2 side and on the service quality side I believe that it was
3 intended to address the risk that the remediation for
4 service quality, service reliability issues, that we've
5 talked about the risk that the cure is more expensive than
6 expected that that still be affected and have the
7 financial capacity to address.

8 Q. So, in other words, the reinvestment
9 recommendation isn't directed necessarily at introducing
10 new services, but it's also directed at maintaining the
11 existing plant and ensuring it's operational at acceptable
12 levels?

13 A. Upgrading and maintaining existing plant. You
14 know on the CAF II side certainly upgrading, but primarily
15 upgrade and maintenance.

16 MR. BURKE: I think that's all I have on
17 rebuttal so Mr. Mills is available for cross
18 examination.

19 CHAIRMAN VOLZ: Great. Ms. Bouffard.

20 CROSS EXAMINATION

21 BY MS. BOUFFARD:

22 Q. Good morning.

23 A. Good morning.

24 Q. You were here yesterday and heard the
25 Consolidated witnesses testify, correct?

1 A. Correct.

2 Q. And you heard a number of the witnesses, but
3 Mr. Waggoner in particular talk about the plans that
4 Consolidated has to get in to Vermont and the other
5 FairPoint markets and get an opportunity to really learn
6 about more about the network and the operations and then
7 from there make decisions about how they are going to
8 prioritize making improvements and upgrades. You heard
9 that, right?

10 A. Yes.

11 Q. And that makes sense to you?

12 A. It does.

13 Q. And you -- you're familiar with the other
14 Consolidated acquisitions, right?

15 A. I am.

16 Q. And you've seen them successfully integrate
17 other companies, correct?

18 A. I have.

19 Q. And you're aware that in this proceeding
20 Consolidated has agreed to make a minimum capital
21 investment of 14 percent for three years, right?

22 A. Yes.

23 Q. You're aware of that? You're also aware that
24 Consolidated has agreed to the Department's recommendation
25 to provide a capital expenditure plan for three years,

1 right? You're aware of that?

2 A. I'm not sure how that differs from the
3 previous question. I think so, but --

4 Q. Okay. Are you aware that there's a request
5 from the Department for both a minimum capital investment?

6 A. Yes.

7 Q. As well as a plan?

8 A. Yes. Yes.

9 Q. And Consolidated has agreed to both of those
10 things, right, and --

11 CHAIRMAN VOLZ: So did the answer the
12 last -- you shook your head.

13 MR. MILLS: Yes.

14 CHAIRMAN VOLZ: Okay. You nodded your
15 head.

16 BY MS. BOUFFARD:

17 Q. Are you aware that Consolidated has agreed
18 that they will comply with the service quality
19 requirements that are currently imposed on FairPoint
20 through Docket 5903, Docket 8790, and what the Board
21 ultimately rules on in Docket 8701?

22 A. Yes.

23 Q. And, fourth, you were here yesterday when Mr.
24 Waggoner expounded on the tools that Consolidated has used
25 in its other territories to improve service quality that

1 are separate from capital expenditures, right?

2 A. Yes. I don't know that they are separate from
3 capital expenditures, but yes I know -- I understood what
4 he talked about.

5 Q. Do you recall him pointing to the exhibit in
6 his rebuttal testimony that list -- that had a list of the
7 tools that Consolidated has used?

8 A. Yes.

9 Q. Such as training?

10 A. I'm sorry. I thought you were talking about
11 the technical data. Yes I'm with you.

12 Q. I might have not been clear in my question.
13 You are also aware, right, that Consolidated has agreed to
14 the request CAPI -- to meet with CAPI on a quarterly
15 basis?

16 A. Yes.

17 Q. And you also heard Mr. Waggoner testify
18 yesterday in response to a question I believe from
19 Attorney Burke about the tools that Consolidated uses for
20 tracking trouble reports, correct?

21 A. The, what he referred to as, data mining?

22 Q. Yes.

23 A. Yes.

24 Q. And specifically do you recall Mr. Waggoner
25 talking about the superior tools that Consolidated has to

1 target issues in particular geographic areas as well as to
2 be able to better see trends due to weather issues?

3 A. Yes.

4 Q. So taking all of those things into
5 consideration and everything you have heard from the
6 Consolidated witnesses here that sounds like a pretty
7 solid plan to address service quality issues going
8 forward, doesn't it?

9 A. It could be. I'm not being evasive, but
10 without seeing it enacted I couldn't -- I couldn't say for
11 certain, but it does sound -- it does sound reasonable,
12 and the data analytics that you describe in particular
13 would offer what we can't know from subsets of data and
14 incomplete views. I can't say that FairPoint doesn't know
15 the same information, but it would take that to pinpoint
16 hot spots in order to target CapEx, et cetera, so that it
17 could make a difference, but --

18 Q. I'm not asking for an assurance as to whether
19 or not that will in fact remedy the service quality issues
20 you're concerned about. My question is really does that
21 sound like a reasonable plan from your perspective at this
22 time?

23 A. It does. It does.

24 MS. BOUFFARD: Thank you. I don't have
25 any more questions.

1 CHAIRMAN VOLZ: Great. Thank you.

2 MR. PHILLIPS: FairPoint has no
3 questions for Mr. Mills.

4 CHAIRMAN VOLZ: Mr. Rubin.

5 MR. RUBIN: Yes. I have a few. Thank
6 you, Mr. Chairman.

7 CROSS EXAMINATION

8 BY MR. RUBIN:

9 Q. Good morning, Mr. Mills.

10 A. Good morning.

11 Q. Just following up on a couple of things you
12 said in your colloquy with Mr. Burke does the failure to
13 spend money on maintenance and capital always result in
14 immediate service reliability problems?

15 A. No.

16 Q. In some instances does it take time for plant
17 to deteriorate to the point where outages or other
18 problems occur?

19 A. Well I would say it always takes time for
20 problems to occur.

21 Q. So in your opinion is there a reason to have
22 spending requirements even if there are service quality
23 metrics, standards, or reporting requirements?

24 A. Would you restate that?

25 Q. Sure. In your opinion is there a sound reason

1 to have minimum spending requirements on capital and
2 maintenance even though there are service quality
3 standards and reporting in place?

4 A. This is oversimplified, forgive me, but I
5 would say that if the service quality metrics were
6 consistently met across the board there would not be a
7 reason for that from the service quality perspective.

8 Q. Okay. And if you say consistently met, over
9 what period of time would you want to look at to determine
10 --

11 A. Year over year.

12 Q. For how many years roughly?

13 A. I would say a couple of years is indicative of
14 equilibrium.

15 Q. And are you familiar with FairPoint's service
16 quality metrics?

17 A. I am.

18 Q. Do they show that kind of steady year over
19 year no problem -- sorry I'm not using the words you just
20 used --

21 A. That's okay.

22 Q. How do they measure up, I guess, to what you
23 just said?

24 A. In almost every area they measure up quite
25 well. Very good performance to good performance. When we

1 get into a subset of a subset, meaning if we get down to
2 residential customers, consumers, non-commercial,
3 out-of-service oriented trouble for a certain part of the
4 year, generally the summer months, it depends on the year,
5 it usually starts in May and usually ends in August, it's
6 not always the same three months, but that pocket is a
7 systematic -- has been a systematic problem.

8 Q. Does that indicate certain types of problems
9 in your experience?

10 A. Well I would categorize that as two types of
11 problems. There are two metrics -- there are tons of
12 metrics, but there are two that FairPoint reports that are
13 included in this area that I'm calling out-of-service
14 conditions. Something called a network trouble report
15 rate, which is a troubles reported per number of access
16 lines where customers -- and that's indicative of the
17 volume, and then there's a troubles cleared within 24
18 hours is the current period and that's a measure of how
19 long it takes to fix a problem. So you could have one
20 trouble report and it take 48 hours to repair that and
21 you've succeeded on the first metric but failed on the
22 second. In this case in those months both metrics are
23 problematic which means -- forgive me. You didn't ask
24 what that meant.

25 Q. Well you're reading my mind because I think

1 the obvious followup to that is what type of problems does
2 that indicate?

3 A. Well I would be speculating maybe strong
4 because we've seen a fair amount of data, but we're not
5 privy to all information and -- but I would say that they
6 indicate different kinds of issues that need to be
7 addressed. The trouble report rate or the higher than
8 normal number of troubles occurring generally in the rainy
9 months indicate problems from the rain with the equipment.

10 As I said they are recorded as over half, 52
11 percent cable related problems, and Mr. Wierson's talked
12 about this. I don't want to get overly tedious, but old
13 copper paper -- well regardless of the sheathing, whether
14 it's paper or not, lightning strikes create pin holes,
15 seepage from rain can create sensitivity, et cetera,
16 that's -- I don't know that to be the case, but we know
17 that those facts exist. So I would say that those are
18 either -- well equipment issues; network, plant issues,
19 and then the time to cure could be any number of things.
20 It could be a shortage of labor. It could be in Mr. -- I
21 don't know if it was Mr. Barber or Mr. Spillane's
22 testimony talking about an inadequate number of bucket
23 trucks, for example, if that's an issue and I don't know
24 that it is, and it took longer to repair a cable problem,
25 that might be an explanation. It could be labor. It

1 could be any number of things, but we know that Vermont
2 has a high level -- a higher level of aerial cable than in
3 a number of other states and so creates a bit of a
4 problematic situation with that sort of equipment.

5 MR. RUBIN: Thank you. That's very
6 helpful. That's all the questions I had.

7 CHAIRMAN VOLZ: Thanks.

8 MR. PHILLIPS: Mr. Chair, I just have a
9 quick question.

10 CHAIRMAN VOLZ: Yes.

11 MR. PHILLIPS: Mr. Mills has mentioned a
12 couple of percentages in his testimony and I note
13 that some of his testimony is confidential. I'm not
14 able to ascertain whether the three percentages he
15 mentioned so far are confidential, but I would just
16 ask if we could be mindful of the confidential
17 restrictions.

18 CHAIRMAN VOLZ: Okay. Thank you.

19 MR. YOUNG: Good morning, Mr. Mills. In
20 your testimony you have a number of comparisons
21 between services FairPoint offers and services
22 Consolidated offers, correct?

23 MR. MILLS: Yes.

24 MR. YOUNG: In looking at those I'm
25 trying to figure out, you know, how to take those.

1 Should -- are you expecting that the pricing strategy
2 Consolidated employs elsewhere is likely to come into
3 Vermont?

4 MR. MILLS: I can't -- I can't say that.
5 Frankly when we went into the pricing review I
6 expected to find common themes across other
7 properties and I didn't, and as I mentioned, I
8 apologize for this, but it was very difficult with
9 the information provided to draw very clear-cut
10 pricing matrices from which we could compare
11 services, and even then it's not always meaningful to
12 compare one property pricing to another. There can
13 be different cost bases, all kinds of things can be
14 different, but because we had to rely on, in both
15 cases, FairPoint and Consolidated's public web sites
16 and because those are driven by location, put your
17 address in, it does service qualification,
18 availability, et cetera, et cetera, it was difficult
19 to come to systematic conclusions.

20 I found examples where they were
21 typically very closely priced but in different
22 examples one slightly more than another, but I didn't
23 find anything systematic and so -- so the application
24 of trivial differences wouldn't be noticeable as far
25 as I could tell.

1 MR. YOUNG: The reason I'm asking I'm
2 trying to figure out what to take from your
3 testimony, and comparisons because if there's not an
4 expectation that you're likely to see pricing similar
5 to what Consolidated does elsewhere, what inferences
6 are you asking the Board to draw from it?

7 MR. MILLS: Well I'm sorry. Maybe I
8 wasn't clear. Pricing was very similar from the
9 examples that we could tell, and again you have
10 issues like you see a price, you don't know if it's a
11 promo price, you don't know if it's not -- very
12 common for those prices not to be available to
13 existing customers, et cetera. So with that in mind,
14 and I will say we requested what I called a product
15 catalog with very specific information, individual
16 products, each bundled, availability in pricing, and
17 we were given some subsets of that and the web site.
18 So we asked for clarity, but we had to back into what
19 we know, and the pricing differences were not
20 significant enough so that if a different approach
21 was used now for pricing I don't know that it would
22 be noticeable.

23 MR. YOUNG: Did you also compare bundles
24 when you're making those comparisons?

25 MR. MILLS: Yes. Yes. Particularly

1 bundles because that's -- you know that's really the
2 most commonly adopted program now and there's implied
3 discounting and so on.

4 MR. YOUNG: And when you're thinking of
5 bundles are you thinking primarily of voice plus
6 broadband?

7 MR. MILLS: Yes because FairPoint's
8 video offering is a third party. I will say on a
9 stand alone basis we looked hard just at voice for
10 those customers that either don't have adequate data
11 availability or for economic reasons only want voice
12 by itself. So we did look at that stand alone, but I
13 tried to pay special attention to bundles because
14 sometimes you find interesting discounting approaches
15 to pick up a bundle, and in the case of Consolidated
16 where they have bonafide IPTV linear video and
17 over-the-top I thought there might be some
18 opportunities for different kinds of pricing
19 mechanisms more attractive. I just couldn't prove
20 it.

21 MR. YOUNG: You also have a comparison
22 to service quality between FairPoint and some of the
23 -- an assessment of Consolidated's service quality in
24 certain places; is that correct?

25 MR. MILLS: Yes.

1 MR. YOUNG: I didn't see any conclusions
2 that you were -- that you were drawing as a result of
3 that review. Are there any that I should take from
4 your testimony -- any summary conclusions?

5 MR. MILLS: May I summarize some
6 information and then try to bring that to a
7 conclusion or would you like a --

8 MR. YOUNG: That's fine. I'll let you
9 answer it however you want. I was just wondering
10 what inferences you're asking us to draw from what
11 you said.

12 MR. MILLS: My inferences were mixed or
13 my own conclusions were mixed and so my inferences
14 probably -- probably are mixed. In many areas their
15 performance crossed the four states; Illinois,
16 California, and Texas -- four properties were -- was
17 outstanding. They had a hundred -- met a hundred
18 percent of the metrics a hundred percent of the time.

19 In all cases the cleared in -- the
20 out-of-service metric cleared in 8 or 24 or 30 hours
21 was problematic. In one property in the State of
22 Texas that metric -- the State of Texas that metric
23 is cleared in 8 hours 90 percent of the time. A very
24 high standard. Lots of moving parts. In comparison
25 cables are often buried. It's not as volatile a

1 situation, you know, so on so forth. So there's a
2 reason why standards are different, but that's as
3 high as I could think of and I probed a bit trying to
4 find another that was more strict.

5 Illinois has 24, cleared in 24 95
6 percent of the time, but you have 24 hours to clear
7 it. So very strict standard, but I would say the
8 most problematic was one of the two properties;
9 Consolidated Communications of Texas, the other being
10 Fort Bend where they did not give us 2016 service
11 quality. We got four years through December of '15
12 and 27 of the last 30 months for that property failed
13 the out-of-service metric. The cleared in 8 90
14 percent of the time. So I would like to have known
15 and just couldn't did that get fixed in January,
16 February, March, and so on? I don't know the answer
17 to that, but my conclusions -- well actually let me
18 step sideways and say they met their network trouble
19 report rate metric in every property one hundred
20 percent of the time for the five year nine month
21 period from California Surewest and the four years --
22 so network trouble report rate is solid along with
23 many of the others including call center metrics and
24 so on. A couple of exceptions that I didn't think
25 were extreme, but if there was a conclusion, it would

1 -- it would be well why has it been acceptable to
2 live with these out-of-service performance metrics
3 and not cure them over an extended period of time
4 unless it's just not economically feasible and I
5 don't know the answer to that.

6 With that said, of the 222 reporting
7 months for the State of Texas only I believe four of
8 those even with an 8-hour cure period were less than
9 the 60 and 70 percent that Vermont has in place. So
10 their higher standard on top of Vermont's standards
11 would be considered exceptional service.

12 I would like to have seen those
13 performance problems solved and they weren't, but the
14 fact is even with a stricter narrower close window
15 it's quite a bit above Vermont's action level and
16 baseline standards of 60 and 70 percent.

17 MR. YOUNG: So is that the basic
18 conclusion we should be taking from your testimony
19 that even though they might have had problems with
20 some of these standards they are still doing -- their
21 performance is better and that's what we should be
22 expecting? I'm just trying to --

23 MR. MILLS: Yes.

24 MR. YOUNG: -- is what you want us to
25 take from your testimony as a conclusion on this

1 subject if you have one.

2 MR. MILLS: Well it's fair and frankly I
3 really struggled with trying to boil it down to
4 usable actionable information. To boil it down
5 again, and forgive me if that wasn't conclusive
6 enough, I would say their performances is
7 significantly better than Vermont standards even in
8 the troubling areas, but you have long strings of
9 performance issues in certain areas that haven't been
10 cured.

11 MR. YOUNG: Thank you. One other area I
12 wanted to ask you about. You mentioned this morning
13 you referred to NOC incidents, network operations
14 center incidents. Can you explain what makes
15 something a NOC incident as opposed to other types of
16 service quality problem?

17 MR. MILLS: Yes. NOC incidents also
18 might be called an alarm. Mr. Waggoner referred --
19 or Mr. Reed referred to alarms from some of the new
20 battery types yesterday. So alarms go to the network
21 operations center. That should correlate to trouble
22 tickets which are called in. Trouble tickets should
23 be created from probably most alarms or incidents in
24 the NOC, but they may be issues that occur in the
25 network that are not noticeable to customer service.

1 It could be a power problem in one of the office
2 buildings that doesn't affect customer service at
3 all. Thousands and thousands of different things
4 that could generate an incident and you have to
5 filter through those. A subset of them could be
6 customer affecting and could correlate with and
7 should correlate with trouble tickets if that
8 distinction is clear.

9 MR. YOUNG: Okay. So when you're
10 classifying -- and one of the other Department
11 witnesses also talked about NOC incidents. When
12 you're classifying you're basically talking about
13 something that triggers an alarm in the NOC --

14 MR. MILLS: Yes.

15 MR. YOUNG: -- indicating that there's
16 something going on in the network that may or may not
17 be customer affecting?

18 MR. MILLS: Yes.

19 MR. YOUNG: Thank you.

20 BOARD MEMBER HOFMANN: Thank you. Mr.
21 Mills, if you could look at your confidential exhibit
22 WCM 4 --

23 CHAIRMAN VOLZ: Do we need to go under
24 confidential?

25 BOARD MEMBER HOFMANN: No. These are

1 confidential but -- so you looked at a number of
2 states. I think four; is that correct?

3 MR. MILLS: Yes.

4 BOARD MEMBER HOFMANN: And are --

5 MR. MILLS: No. Three states four
6 properties.

7 BOARD MEMBER HOFMANN: And am I correct
8 that all of the information you got from the other
9 states is considered confidential in those states?

10 MR. MILLS: Yes. Highly confidential I
11 believe.

12 BOARD MEMBER HOFMANN: And it's marked
13 confidential, but that's okay.

14 MR. MILLS: Okay.

15 CHAIRMAN VOLZ: Yes.

16 MR. BURKE: I just want to remind the
17 Board in the protective order regarding confidential
18 evidence the Board found it would not treat WCM 4 as
19 confidential.

20 BOARD MEMBER HOFMANN: Thank you. That
21 was my question as to the other states. Thank you.

22 BOARD MEMBER CHENEY: I had a question.
23 Follow up. The answer may be impossible, but of the
24 two properties that were problematic where they had
25 poor out-of-service metrics did you see anything they

1 might have had in common or different from the areas
2 where there was outstanding performance?

3 MR. MILLS: Well all four properties
4 have problems with the cleared in 8, 24, or 30 hour
5 period. The two most extreme were the two Texas
6 properties. So the commonality there they share a
7 call center which may or may -- probably isn't a
8 factor, but I know that properties are in different
9 parts of the state physically. I can't -- other than
10 the fact that it's a very, very strict metric, 8 hour
11 clearance 90 percent of the time, so may just be in
12 Texas no matter where you are it's hard to meet it.
13 So I'm sorry.

14 BOARD MEMBER CHENEY: Thanks.

15 CHAIRMAN VOLZ: I had a question. On
16 page 27 of your direct testimony of March 29th at the
17 top of the page you talk about -- I don't need to get
18 into the confidential number that's at the top of the
19 page. This is more definitional. You talk about
20 FairPoint's customer base did not have access to
21 wireline voice service alternatives, and what do you
22 consider to be alternatives to wireline service?
23 Voice service?

24 MR. MILLS: Cable or fiber is the
25 definition we use.

1 CHAIRMAN VOLZ: Great. Not -- cell
2 phone service doesn't qualify?

3 MR. MILLS: It was removed from the
4 discussion.

5 CHAIRMAN VOLZ: Okay. Great. Thanks.
6 Any followup to our questions before we go to
7 redirect? Okay. Any redirect?

8 MR. BURKE: I do have one question, but
9 I'm not sure.

10 CHAIRMAN VOLZ: Okay.

11 MS. BOUFFARD: I don't have anything.

12 CHAIRMAN VOLZ: Okay.

13 MR. BURKE: I had one redirect. Yes.

14 CHAIRMAN VOLZ: Yes. Go ahead.

15 REDIRECT EXAMINATION

16 BY MR. BURKE:

17 Q. Mr. Mills, you answered some questions about
18 data mining in response to what you heard from Mr.
19 Waggoner yesterday with respect to trouble tickets.

20 A. Yes.

21 Q. And you've spent in this Docket and in 8701 a
22 significant amount of time looking at FairPoint trouble
23 tickets; is that correct?

24 A. Yes.

25 Q. So you understand FairPoint's processes fairly

1 well?

2 A. Yes.

3 Q. And based on what you heard from Mr. Waggoner
4 do you think how Consolidated would approach analyzing
5 trouble tickets is an improvement over what FairPoint has
6 been doing?

7 A. Excuse me. Yes.

8 MR. BURKE: That's all I have.

9 CHAIRMAN VOLZ: Thank you. We're ready
10 for the next witness.

11 MR. BURKE: The Department is going to
12 call Ardeth Smith.

13 BOARD MEMBER CHENEY: Good morning, Mr.
14 Smith.

15 MR. SMITH: Good morning.

16 ARDETH SMITH,

17 Having been duly sworn, testified

18 as follows:

19 DIRECT EXAMINATION AND REBUTTAL

20 BY MR. BURKE:

21 Q. Mr. Smith, do you have in front of you a copy
22 of your prefiled direct testimony?

23 A. I do.

24 Q. Is there any need to make any corrections to
25 your prefiled testimony?

1 A. No.

2 Q. Do you also have in front of you the exhibits
3 that are marked DPS AS 1 through DPS AS 15?

4 A. Yes.

5 Q. And do you need to make any corrections to any
6 of those exhibits?

7 A. No.

8 MR. BURKE: Mr. Chairman, at this point
9 I would like to move for the admission of Mr. Smith's
10 prefiled testimony and the exhibits marked DPS AS 1
11 through DPS AS 15.

12 CHAIRMAN VOLZ: They are admitted.

13 (The Prefiled Testimony of Ardeth Smith
14 was admitted into the record.)

15 <http://epsb.vermont.gov/?q=download/114957/27345>

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1 (Exhibits marked DPS-AS 1-15 were
2 admitted into the record.)

3 CHAIRMAN VOLZ: Ms. Bouffard, do you
4 have questions for this witness?

5 MR. BURKE: I have a few rebuttal
6 questions.

7 CHAIRMAN VOLZ: You're going to do
8 rebuttal first. Go right ahead.

9 BY MR. BURKE:

10 Q. Mr. Smith, you reviewed Consolidated's
11 rebuttal testimony, correct?

12 A. Yes.

13 Q. And you were present during the hearings
14 yesterday?

15 A. Yes.

16 Q. And in your direct testimony you had call them
17 three broad recommendations regarding systems and cutover?

18 A. Yes.

19 Q. And you heard Consolidated's responses and
20 reviewed their rebuttal testimony and how they responded
21 to those conditions?

22 A. Yes.

23 Q. And your first condition related to providing
24 notice three months in advance of any OSS or BSS cutovers.
25 Did you find the company's responses in the rebuttal

1 testimony or during the hearing yesterday satisfactory?

2 A. During the hearing yesterday I believe Mr.
3 Childers agreed that was a reasonable request, presenting
4 a report to the DPS so you know before your customers do.

5 Q. And you also had a recommendation regarding
6 thorough stress testing and volume testing in advance of
7 converting existing source applications to target
8 applications. I have the same question. Did you find the
9 company's responses to this condition to be satisfactory?

10 A. No. I think we conflate stress and volume
11 testing with thorough system testing and perhaps industry
12 accepted testing. The stress testing in this case is
13 you're putting load on your primary systems to determine
14 when they break. So you're looking for at this level of
15 transaction this system no longer functions. Volume
16 testing is you're looking for an increased volume in your
17 system to determine whether it will still perform
18 according to your expectations. So those generally
19 involve putting a load on your system separate from the
20 actual data conversion that we talked about yesterday
21 where all those test cases are executed. You look at how
22 the system is functioning which is valid testing, but it's
23 not stress and volume testing. Stress and volume testing
24 would be done in advance of that so that you have time as
25 an organization to determine how to fix any issues you

1 find which may require redesign of parts of the systems
2 which is a lengthy process and it may require additional
3 hardware which can be a lengthy process also.

4 Q. Your third recommendation related to having
5 the Consolidated merger approved, complete a cutover in
6 one of the three Northern New England states prior to
7 doing cutover for the entire service territory in Northern
8 New England. Did you find their response to that
9 recommendation satisfactory?

10 A. No. It was partial in that it is -- that is
11 one -- the issues raised that customers can be in multiple
12 bill cycles or there has to be communications done to
13 CLECs don't address the request. The communications CLEC
14 is something that has to be done anyhow. The customers in
15 multiple bill cycles is one of many decisions that the
16 company will have to evaluate on a risk reward basis of
17 how they best address that. It wasn't covered in the
18 material that was provided.

19 Q. You have also reviewed FairPoint's rebuttal
20 testimony from Mr. Reed; is that correct?

21 A. I did.

22 Q. And on page 5 of his testimony Mr. Reed -- I'm
23 paraphrasing here -- asserts that the crux of the system
24 conversion related recommendations are addressed by the
25 wholesale operations OSS interface change management

1 process.

2 A. And that is incomplete. That works towards
3 the wholesale carrier, but it doesn't address the retail
4 and other commercial carriers.

5 Q. And then in his rebuttal testimony Mr. Shultz
6 discussed systems that are common between FairPoint and
7 Consolidated, and this is on page 3 of his rebuttal
8 testimony which showed similarity between 5 of 13 systems
9 listed. Can you discuss how this matching or uniformity
10 of systems would affect potential risk reduction in terms
11 of system turn over?

12 A. Yes. It's a good start. It does reduce risk
13 when you have the same systems. You still have to do a
14 conversion when you want to consolidate them. There can
15 be differences between different instances if they are on
16 different levels or what modifications have been made to
17 them. So there's still some risk there that was greatly
18 reduced when you're going from one version of an
19 application to another. The systems that were in -- that
20 were very similar were the less complex systems. It
21 wasn't the customer care and billing systems which are the
22 highest risk for conversion. Those systems have a lot
23 more that can go wrong and require a lot more effort to
24 get it right.

25 MR. BURKE: And that's all I have for

1 rebuttal testimony.

2 CHAIRMAN VOLZ: Thank you. Any cross
3 examination for this witness?

4 MS. BOUFFARD: I do have some cross
5 examination. Thank you.

6 CHAIRMAN VOLZ: Okay.

7 CROSS EXAMINATION

8 BY MS. BOUFFARD:

9 Q. Good morning, Mr. Smith.

10 A. Good morning.

11 Q. In your testimony you talk about -- and I'll
12 have you just turn to page 16 if that's helpful.

13 A. I'm there.

14 Q. You talk about your concern really being about
15 avoiding big bang conversion of all the properties at the
16 same time, correct?

17 A. Correct.

18 Q. And based on the testimony you heard yesterday
19 you're not concerned that Consolidated has any intention
20 of cutting over all of its systems all at once, right?

21 A. They are not cutting over at close which is a
22 very, very good thing, but no plans have been presented as
23 to how they will eventually cut over. We talked about
24 ERPs within some set time of conversion and there will be
25 analysis done for the OSS and BSS systems, but no

1 discussion of if it's going to be one cutover or multiple
2 cutovers.

3 Q. And one of the things I'm a little bit worried
4 about is that we might be mixing terms. You've talked
5 about stress and volume testing. Yesterday we heard about
6 parallel testing from the Consolidated folks. So rather
7 than focusing on those terms I want to see if I understand
8 what your concerns are. So with respect to the stress
9 testing this morning you testified that you are concerned
10 about whether the new system would be able to handle the
11 load, right?

12 A. Correct.

13 Q. So if Consolidated was going to approach any
14 system's integration with a focus on making sure that the
15 new system could handle the load, that would satisfy your
16 concern there, right?

17 A. Yes.

18 Q. And with respect to the volume testing the
19 concern there is whether the new system can handle the new
20 volume that is going to be put on it, correct?

21 A. Correct.

22 Q. So whether we call that stress testing or
23 something else as long as Consolidated is building in some
24 type of testing mechanism before they actually do the
25 switchover that would look at this issue of whether the

1 new system could handle the increased volume that would
2 satisfy you, right?

3 A. Not necessarily. When the system -- when the
4 testing that was described by Consolidated, which is good
5 and valid testing, you generally focus on some subset.
6 You focus on bill cycle one and you get that right and
7 that's important. If bill cycle one is not three times --
8 is not going to be your largest bill cycle, that's good
9 from a functional standpoint and can you bill the
10 customers the same. It's not if I have a bill cycle
11 that's now three time bigger does it now run outside my
12 expectations.

13 Q. So then are you referring to something
14 specific yesterday that you heard in the testimony that
15 concerns you?

16 A. What I didn't hear there was no addressing --
17 the volume testing and stress testing are not addressed in
18 what was responded to.

19 Q. And I'm just wondering what specifically
20 additional volume testing what are you trying to target --
21 what would you be trying to target?

22 A. You want to find out whether your systems can
23 operate at your expected volume. So you would want to
24 make sure that your bill cycles -- if you have a parameter
25 such as your bill cycle has to complete in eight hours at

1 night before the call center comes in, in the morning and
2 you now have more bill cycles on your system, can you
3 still meet that parameter. That's volume testing.

4 Q. So if Consolidated was employing some type of
5 testing before they did the system integration, that would
6 give them information about whether the new system would
7 operate at the expected volume that would satisfy your
8 concern there, right?

9 A. Yes.

10 Q. Now with respect to this issue of having the
11 system integration going state by state do you agree with
12 me that Consolidated once it gets in and familiarizes
13 itself with the various systems that FairPoint is using
14 that they will be in the best position to decide whether
15 it's appropriate for them to actually do any system
16 conversion?

17 A. Yes.

18 Q. And one way to do system integration would be
19 on a state-by-state basis, correct?

20 A. As part of an overall program if you
21 determined you're going to convert state by state, yes.

22 Q. And your concern again is with some type of
23 big bang system conversion where everything is -- every
24 OSS, BSS system would be cut over at essentially the same
25 time?

1 A. For all properties.

2 Q. So another way to address that concern rather
3 than going state by state would be to go a particular
4 system or piece of a system at a time?

5 A. That could address part of it. So in some
6 systems it will, but when you get to your retail custom
7 care and billing systems, which is where most of your
8 activity is, converting work force management in advance
9 of that doesn't really help. It helps a little bit, but
10 it doesn't help -- it doesn't address the core concern.

11 Q. And you heard the concerns from the
12 Consolidated folks about why going on a state-by-state
13 conversion may create additional problems?

14 A. There are management tasks that need to be
15 performed to analyze what the risks and rewards are of
16 doing each of these things. This is a recommendation to
17 protect the users in Vermont from disruption.

18 Q. Let me ask it a different way I guess, but
19 there are -- there is this state-by-state approach that
20 you suggest, but there are other ways to allow for
21 incremental system conversion, correct?

22 A. Yes.

23 MS. BOUFFARD: Okay. Thank you.

24 CHAIRMAN VOLZ: Mr. Phillips.

25 MR. PHILLIPS: I have no questions for

1 Mr. Smith.

2 CHAIRMAN VOLZ: Okay. Mr. Rubin.

3 MR. RUBIN: No questions. Thank you.

4 MR. YOUNG: Good morning, Mr. Smith.

5 MR. SMITH: Good morning.

6 MR. YOUNG: So I want to -- I'm not sure
7 where I'm going to start here so I have to pick one
8 place. Let me start with scaling up systems. You
9 discuss that in your testimony, correct, that some of
10 the systems can be scaled up?

11 MR. SMITH: Yes.

12 MR. YOUNG: Do you know whether a lot --
13 a number of the systems that -- that Consolidated now
14 uses if you did a migration to those systems could
15 handle the increased load of basically from the
16 Northern New England states or from FairPoint
17 properties?

18 MR. SMITH: I do not. I know of no
19 reason why they can or cannot. The systems they have
20 described to us in the interactions we have had are
21 robust commercial systems, but I don't know for a
22 fact that they will or will not scale.

23 MR. YOUNG: And am I correct that one of
24 the advantages if you can scale up the system and
25 transferring over from an equivalent system that it

1 largely then becomes just a data transfer issue, is
2 that correct, or is there something more complicated?

3 MR. SMITH: It's more complex than that.
4 Data transfer is a component of it. You have to also
5 interpret or uncover and interpret all the business
6 rules that are buried within the system that may not
7 be clear to people and you have to rely on business
8 subject matter experts to go hey when you do this you
9 need to do this other thing in order to transform
10 that data. That's the more complex part of it.

11 MR. YOUNG: Okay. One of the things you
12 mention in your testimony -- I'll come back to the
13 specifics -- is wholesale systems. Am I correct that
14 right now Consolidated doesn't really have the
15 equivalent wholesale systems to what FairPoint has?

16 MR. SMITH: That's mostly correct.
17 Nobody has -- very few people, unless you are subject
18 to the RBOC sections that you all know about, you
19 don't have systems like that. They are expensive and
20 you wouldn't want to do that. FairPoint or
21 Consolidated has described they have some of the same
22 systems. For instance, the synchronous VFO
23 application receives these ASR LSR orders and
24 Consolidated uses that for ASR processing. Assess
25 service requests. It's order from carriers.

1 FairPoint uses it for that same reason, but they also
2 use it for LSR and probably have some more
3 customizations in VFO than what Consolidated has, but
4 they will need to investigate that as part of a
5 migration.

6 MR. YOUNG: And LSR is?

7 MR. SMITH: Local service request.

8 MR. YOUNG: So you were just asked about
9 whether you could sort of -- a different way of
10 migration would be doing one piece of the system at a
11 time and I guess my question would that work in the
12 wholesale arena?

13 MR. SMITH: Yes you could. You may have
14 to do some additional development work, but you could
15 migrate with advance planning and smart people you
16 could decouple some of these things and separate
17 them.

18 MR. YOUNG: So the wholesale users would
19 still have full access to the systems even though
20 they were using -- different systems were being used?

21 MR. SMITH: They would need to do
22 detailed planning on that and determine exactly what
23 the impact is.

24 MR. YOUNG: So actually I don't need to
25 ask it. So I have a general question on cutover.

1 Should the Board be adopting any conditions related
2 to cutover that would apply in the future as
3 Consolidated begins to migrate systems?

4 MR. SMITH: Not outside the
5 recommendation that they update -- pursue a state by
6 state or a state first and then the rest of the
7 properties later to reduce the risk of a larger
8 customer impact. The rest of their plan as they
9 explained to us in their rebuttal and in their
10 responses to us is a quality plan for executing a
11 cutover, and without them having to execute a cutover
12 at conversion the risk is greatly reduced.

13 MR. YOUNG: Let me run through a couple
14 things that have come up either here or in the
15 context of previous cutovers. So your view is
16 there's not a need for say third party verification
17 of the systems; is that correct?

18 MR. SMITH: I don't think so.

19 MR. YOUNG: What about insuring that
20 it's possible to undo the cutover if something goes
21 wrong?

22 MR. SMITH: As they represented in their
23 plan they have that process in place. That they
24 described a process by which the functional business
25 owners basically go/no go, and if it's a no go, then

1 they are able to fall back. If they have gone that
2 far or change their plans, as I think they described
3 with their Surewest conversion where their quality
4 metrics indicated they should not be ready to go and
5 so they did not.

6 MR. YOUNG: And you mentioned earlier
7 about the need for both volume and stress testing,
8 but in your view that's not something that ought to
9 be mandated as a condition prior to a future cutover?

10 MR. SMITH: It reduces the risk of them
11 encountering problems, but it wouldn't be a mandate
12 for the Board.

13 MR. YOUNG: I think that addresses my
14 questions. Thank you.

15 MR. SMITH: You're welcome.

16 MS. FABRIZIO: Good morning.

17 MR. SMITH: Good morning.

18 MS. FABRIZIO: I just have a couple
19 questions to clarify my understanding. On page 14 of
20 your direct testimony lines 4 to 5 you state that the
21 risk of material impact to business operations with
22 the replacement of the EIP, enterprise resource
23 planning, application can be mitigated with quote
24 strong consecutive leadership, adequate time, and
25 effective time management. So Consolidated has

1 testified that they would like to make the conversion
2 with the EIP by December 2017 and that original
3 testimony was based on the hope for closing date at
4 the end of June. In your mind is six months adequate
5 time?

6 MR. SMITH: Six months should be
7 adequate for what they want to do given all those
8 other things that -- strong leadership, project
9 management.

10 MS. FABRIZIO: Assuming they are in
11 place. Okay. Thank you. And on the next page lines
12 15 to 17 of your direct testimony you state
13 Consolidated describes a mature and methodical
14 approach to OSS, BSS conversions that is consistent
15 with processes followed by other carriers with a
16 successful full track record of integrating
17 acquisitions and converting applications.

18 Based on your review of the company, as
19 well as your understanding of these types of
20 conversions, does Consolidated have a successful
21 track record of integrating its acquisitions in
22 converting applications?

23 MR. SMITH: Yes.

24 MS. FABRIZIO: Thank you. And this is
25 really clarification. On page 20 you have a chart of

1 responses from regulatory agencies from 11 states
2 where Consolidated has a presence. When you state
3 that an agency reported no litigation complaints or
4 labor practice actions does that mean that the agency
5 reported that there were no complaints or does it
6 indicate that the agency actually didn't respond to
7 the survey?

8 MR. SMITH: In this case they didn't
9 respond -- no they reported -- they would come back
10 and they filled out the form and didn't specify
11 anything. They left that part blank.

12 MS. FABRIZIO: So it was in fact a
13 response that there was no complaint?

14 MR. SMITH: Yes.

15 MS. FABRIZIO: Okay. Great.

16 MR. SMITH: Meaning they left it blank.
17 So I'm assuming if they left that section blank that
18 they had nothing to report.

19 MS. FABRIZIO: Okay. Thank you. On
20 page 23 lines 10 to 14 this goes back to the issue of
21 converting -- a recommendation that Consolidated
22 convert one of the Northern New England states first
23 as a test. Would you have a recommendation as to
24 which state to start with if that recommendation were
25 --

1 MR. SMITH: I'm testifying for the State
2 of Vermont. I would say not Vermont.

3 MS. FABRIZIO: Why is that?

4 MR. SMITH: It's the first people would
5 have the higher risk. So any time you do multiple
6 conversions your later conversions are better than
7 your first one because you have learned.

8 MS. FABRIZIO: Thank you. That sort of
9 goes to my next question. What are the ramifications
10 of this sort of approach and it sounds like the test
11 state might get the unpleasant experience?

12 MR. SMITH: No. They would still do --
13 they would still follow their process and their
14 plans. You're just reducing the risk of all your
15 customer base in Northern New England being impacted
16 at one time to a subset of your customers which is
17 measurable from a volume of calls going into your
18 call center if there are problems is the primary
19 driver for that.

20 MS. FABRIZIO: Okay. Thank you. That's
21 it.

22 CHAIRMAN VOLZ: Any followup to our
23 questions?

24 MS. BOUFFARD: No followup.

25 MR. PHILLIPS: I have one.

1 CHAIRMAN VOLZ: Okay.

2 CROSS EXAMINATION

3 BY MR. PHILLIPS:

4 Q. Mr. Smith, if each of the three Northern New
5 England states adopted a not our first state version, how
6 in your view would the conversion occur?

7 A. Slowly.

8 CHAIRMAN VOLZ: Can I just rephrase that
9 question? Putting aside that you're testifying on
10 behalf of a Vermont agency, what from a technical
11 perspective based on your expertise if you were the
12 one responsible for deciding which of the three
13 states really would be the best one to start with,
14 and if it's Vermont, it's Vermont.

15 MR. SMITH: As part of our planning I
16 would investigate what the differences are between
17 those states, what are the regulatory requirements
18 that need to be met, what are the -- any contractual
19 requirements with customers that need to be met that
20 would drive enhancements into our system, and what
21 are the complexities of each of the states that tilt
22 it one way or another. I wouldn't make that decision
23 here. I would make that decision as part of our
24 detailed planning.

25 CHAIRMAN VOLZ: Okay. Thank you. Any

1 other questions before we go to redirect?

2 MR. BURKE: I have no redirect.

3 CHAIRMAN VOLZ: Okay. Great. Thank
4 you. So I was thinking we would take our lunch break
5 now. Does that work for folks? Is there a reason
6 why we need to press on?

7 MS. BOUFFARD: That's fine. Thank you.
8 be back at 1.

9 (Luncheon recess.)

10 CHAIRMAN VOLZ: We're back from lunch
11 and ready to take up where we left off.

12 MR. BURKE: So the Department is going
13 to call Scott Wierson.

14 BOARD MEMBER CHENEY: Good afternoon,
15 Mr. Wierson.

16 SCOTT WIERSON,

17 Having been duly sworn, testified
18 as follows:

19 DIRECT EXAMINATION AND REBUTTAL

20 BY MR. BURKE:

21 Q. Mr. Wierson, do you have with you a copy of
22 your prefiled direct testimony and copies of the exhibits
23 marked DPS SAW 1 through DPS SAW 10?

24 A. Yes.

25 Q. And do you need to make any corrections to

1 either your testimony or any of the exhibits?

2 A. No?

3 MR. BURKE: Mr. Chairman, at this point
4 I would like to move for the admission of Mr.
5 Wierson's testimony and the exhibits DPS SAW 1
6 through DPS SAW 10.

7 CHAIRMAN VOLZ: Okay. They are
8 admitted.

9 (The Prefiled Testimony of Scott Wierson
10 was admitted into the record.)

11 <http://epsb.vermont.gov/?q=download/114958/27345>

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1 (Exhibits marked DPS-SAW 1-10 were
2 admitted into the record.)

3 BY MR. BURKE:

4 Q. And I have just a few rebuttal questions for
5 Mr. Wierson. Mr. Wierson, you reviewed Mr. Waggoner's
6 prefiled rebuttal testimony, correct?

7 A. Yes.

8 Q. And in that rebuttal testimony he stated that
9 Consolidated has experience in managing and operating SS7
10 and STP networks, correct?

11 A. Yes.

12 Q. And in light of reviewing Mr. Waggoner's
13 testimony do you have any clarification with respect to
14 your own direct testimony where you discussed
15 Consolidated's experience with managing SS7 or STP
16 networks?

17 A. I still don't see where they have operated a
18 network as extensive as this with 370 central offices
19 interconnected with STP, SS7 network. They have operated
20 a network of some size, but not nearly that size.

21 Q. And you're also aware that Mr. Waggoner's
22 testimony Consolidated has opposed a recommendation from
23 you that the company be required to provide a plant and
24 network maintenance and logistic plan within 12 months of
25 completion of a merger?

1 A. Yes.

2 Q. And can you just provide some more insight as
3 to why you have made that recommendation and why you feel
4 it's important?

5 A. Yes. We've discussed some of the issues Mr.
6 Mills brought up, some of the issues that we've seen in
7 the trouble reports with the cable plant, some of the
8 issues we've seen with the power systems and the NOC
9 reports, and we think that looking at a good maintenance
10 plan and logistics plan that addressed all the resources
11 and all of the aspects of the network on maintenance and
12 so forth would be advantageous to not only Consolidated,
13 but to the Board as well to have a plan looked at.

14 Q. And you've also reviewed FairPoint's rebuttal
15 testimony from Mr. Reed; is that correct?

16 A. Yes.

17 Q. And you're aware that Mr. Reed in response to
18 your testimony discusses a need for companies like
19 Consolidated and FairPoint to make network related
20 decisions based on a cost and benefit analysis, correct?

21 A. Yes.

22 Q. And he also discussed paper insulated copper
23 and that I think he testified that there's relatively
24 little insulated -- paper insulated copper remaining in
25 the network, especially in the last mile network, and for

1 any paper insulated copper that's used as feeder cables
2 leaving COs that it's very expensive to make those
3 replacements, and can you just provide a general response
4 to what Mr. Reed testified regarding cost benefit analysis
5 and how that interties with replacement of aging copper?

6 A. Yes. It is very expensive to replace copper
7 plant. It is a very expensive proposition. However, a
8 lot of this plant is over 35 years old and it is old
9 plant. You can go to the EPA web site and get a detailed
10 analysis on the aging of and the life cycle of cable
11 including telecommunications cable, and they state the
12 life cycle of that type of cable is from 25 to 40 years
13 old. A lot of the cable in this network is 40 years old
14 or older so it's reached its life cycle and I think it's
15 worthwhile for Consolidated to take a look at that network
16 plant. I think as a result of the trouble tickets that
17 we've seen and the amount, the high percentage of cable
18 issues that we've seen, that that appears to indicate the
19 same thing, the cable plant has some issues and I think
20 it's something that Consolidated needs to take a look at.

21 MR. BURKE: And I have no further
22 rebuttal questions for Mr. Wierson so he's available
23 for cross examination.

24 CHAIRMAN VOLZ: Okay.

25 CROSS EXAMINATION

1 BY MS. BOUFFARD:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. You made several recommendations in your
5 testimony with respect to the SS7 and STP network,
6 correct?

7 A. Yes.

8 Q. And Consolidated agreed to the items you
9 recommended with respect to that, correct?

10 A. Yes.

11 Q. Did you hear the testimony yesterday with
12 respect to the maintenance plan that Consolidated has and
13 uses in its other territories?

14 A. Yes.

15 Q. And is your request here that you request the
16 Board and the Department get an opportunity to look at
17 their plan, is that what you're asking for?

18 A. Yeah. I would like to see the Board take a
19 look at a specific maintenance and logistics plan for this
20 network -- the FairPoint network.

21 CHAIRMAN VOLZ: Prior to deciding
22 whether to approve the transaction?

23 MR. WIERSON: No. I said after.

24 CHAIRMAN VOLZ: Okay.

25 BY MS. BOUFFARD:

1 Q. And just to be clear your request is that be
2 submitted for review to the Board but not that any aspect
3 of it would need to be approved by the Board, correct?

4 A. Yes.

5 MS. BOUFFARD: I have no further
6 questions.

7 CHAIRMAN VOLZ: So the purpose of that
8 would be we would see it, the Department would review
9 it and potentially other parties, and if anybody had
10 concerns about whether it was adequate or not they
11 could bring that to our attention and we could have a
12 proceeding to resolve that, is that the idea?

13 MR. WIERSON: Yes.

14 BOARD MEMBER CHENEY: I notice in your
15 written testimony that you recommended that be done
16 within one year of completion of the merger. What
17 would that year provide?

18 MR. WIERSON: It would provide
19 Consolidated a chance to look at the network and have
20 a good look at all the records in the network, look
21 at more of the plant in the network, look at more of
22 the central offices, the RTSSs, all of that equipment,
23 their resources, their personnel, all of the
24 resources they need to run a maintenance plan and
25 give them a chance to look at, review that, and

1 assess what they really need in order to maintain
2 this network and provide quality of service.

3 CHAIRMAN VOLZ: Mr. Phillips.

4 MR. PHILLIPS: FairPoint has nothing for
5 Mr. Wierson.

6 CHAIRMAN VOLZ: Mr. Rubin.

7 MR. RUBIN: No questions. Thank you.

8 MR. YOUNG: Good afternoon, Mr. Wierson.

9 MR. WIERSON: Good afternoon.

10 MR. YOUNG: So let me start with you
11 were just talking about some of the cable
12 infrastructure of FairPoint, correct?

13 MR. WIERSON: Right.

14 MR. YOUNG: And did I get that right is
15 it you said EPA lists life cycles as between 25 and
16 40 years?

17 MR. WIERSON: Yes.

18 MR. YOUNG: So your testimony focuses,
19 at least in terms of replacement of copper plant, on
20 paper insulated plant; is that correct?

21 MR. WIERSON: Eventually, yes, over
22 time.

23 MR. YOUNG: Do you know how extensive or
24 how much of the network now has paper insulated
25 cables?

1 MR. WIERSON: No I do not. I asked for
2 that information, but we never received --

3 MR. YOUNG: So I presume you have no
4 basis for making an informed guess either or do you?

5 MR. WIERSON: No. Just based on the
6 trouble reports that I have seen and based on knowing
7 that it's out there, but I don't know how much. I
8 don't know how extensive it is. I was a little
9 surprised to hear testimony that most of it was in
10 the feeder part of the network. I would have
11 expected the older cable to be in the what they call
12 the drop or from the RTS to the subscriber, but in I
13 think it's Mr. Reed's testimony he said that most of
14 this old fiber is in the feeder, that's from the
15 central office to the RTS, and having that old cable
16 in that part of the network makes it even more of a
17 concern because an outage in that portion of the
18 network is going to affect multiple subscribers,
19 whereas, at the drop end it might affect just one.

20 MR. YOUNG: Now I'm a little more
21 puzzled. Hasn't most of the feeder copper in the
22 feeder plant or a large percentage been replaced by
23 fiber at this time?

24 MR. WIERSON: I have no record of that.
25 No one indicated that to me at all. There's more

1 fiber in the core of the network interconnecting the
2 various COs, but I never did get any information that
3 the feeder cable had been replaced to any extensive
4 amount.

5 MR. YOUNG: Does the existence of paper
6 insulated copper cable affect DSL capabilities to
7 your knowledge?

8 MR. WIERSON: Yes it could. If the
9 continuity is worse, that could cause all sorts of
10 issues that could affect the bandwidth that you
11 deliver with to a subscriber.

12 MR. YOUNG: And what particular problems
13 of paper insulated copper cables are you thinking of
14 when you say that it may be associated with some of
15 the network or the outage problems?

16 MR. WIERSON: Well there's a number of
17 issues. Just conductivity of the copper it loses --
18 conductivity becomes less and less glossy in the
19 system. Over time as it deteriorates the insulation
20 between copper pairs can fall apart and then you have
21 cross talk. All sorts of issues you enter into in
22 the network as the plant gets older.

23 MR. YOUNG: Following up on this at page
24 10 of your direct testimony starting at line 21 you
25 state that at some point Consolidated will implement

1 a plan to replace old cable infrastructure with new
2 cable. Do you see that?

3 MR. WIERSON: Which line is that?

4 MR. YOUNG: Starting at line 21. Point
5 number three of your bullets here.

6 MR. WIERSON: Yes.

7 MR. YOUNG: Do you have any idea when
8 that would occur?

9 MR. WIERSON: Well I would -- again I
10 would hope that would happen within the first year of
11 them taking over this network that they would have a
12 plan to replace this old cable beyond 35 years old.

13 MR. YOUNG: And when you're focusing on
14 the old cable is that the paper insulated cable or
15 any cable that's over 35 years old?

16 MR. WIERSON: Any cable that's over that
17 many years.

18 MR. YOUNG: Should the Board be
19 requiring that such a plan be developed within the
20 first year?

21 MR. WIERSON: Yes.

22 MR. YOUNG: Do you have -- so let me
23 back up and try to do this in English.

24 MR. WIERSON: Let me qualify that
25 though. I think the plan ought to be also based on

1 the trouble tickets they are experiencing related to
2 that cable plant. So it ought to be prioritized. It
3 ought to be not an all-in-one change out. It should
4 be over time. It has to happen over time. It should
5 happen over time.

6 MR. YOUNG: So if I were going to craft
7 a condition based upon what you said, and I'll let
8 you change what I'm about to say, it would be they
9 should have a plan for replacing plant older than 35
10 years with special emphasis or targeting towards
11 areas with higher trouble reports first?

12 MR. WIERSON: Yes to plant.

13 MR. YOUNG: And is there a time period
14 over which you would recommend that plant replacement
15 occur?

16 MR. WIERSON: Over a couple years. Let
17 me interject something already that in addition to
18 that, though, that I believe -- I don't believe that
19 Consolidated wants to be in the POTS business, the
20 plain old telephone system business, the two wireline
21 phone business. I think their intent and their whole
22 business philosophy is to provide DSL high bandwidth
23 services. So I think they have a lot of motivation
24 to replace this plant in the long term as well. So
25 there's a business motivation for them to replace

1 this in order for them to provide high bandwidth DSL
2 services and over-the-top -- as well as over-the-top
3 services that they intend on doing. They won't be
4 able to do that over poor deteriorated copper plant.
5 They can go for a while with bonding. They can bond
6 two copper pairs together to get a little more life
7 out of it, but eventually that's not going to work.

8 MR. YOUNG: But bonding is going to be
9 more in the local loop level than in the future plant
10 level as to the extent that's where the feeder cable
11 is, correct?

12 MR. WIERSON: Yes.

13 MR. YOUNG: And actually your last
14 comment which is what I was going to ask you about to
15 what extent would the -- would implementing the
16 buildout requirements under CAF II address a lot of
17 the old plant issues if they are having to serve
18 28,000 new locations?

19 MR. WIERSON: New -- in servicing new
20 locations?

21 MR. YOUNG: Do you understand the
22 company's CAF II obligations?

23 MR. WIERSON: Not completely. No.

24 MR. YOUNG: It's my understanding, and
25 somebody can correct me, that the company has taken

1 money under CAF II and has to build out to 28,000
2 addressable locations within a six-year time period,
3 and that's not ubiquitous, but it's a lot of
4 locations that don't have 101 for broadband speed.

5 MR. WIERSON: Okay.

6 MR. YOUNG: And so if they were
7 fulfilling that would that -- is that likely to
8 address a large part of your concern with the
9 infrastructure?

10 MR. WIERSON: Yes. That can help fund a
11 lot of this cable plant upgrade.

12 MR. YOUNG: Related to this issue on
13 page 20 of your testimony line 13, I'll give you a
14 second to turn there first, if you can read the
15 sentence starting on line 13, not out loud, to
16 yourself, then I'll ask you about it.

17 CHAIRMAN VOLZ: The sentence that begins
18 as noted above?

19 MR. YOUNG: Thank you. Yes.

20 CHAIRMAN VOLZ: Okay.

21 MR. WIERSON: Yes.

22 MR. YOUNG: As I read this, you know,
23 you're basically concluding that in your view
24 Consolidated doesn't understand how extensive this
25 problem of old plant is; is that correct?

1 MR. WIERSON: Yes.

2 MR. YOUNG: And I take it you also don't
3 have any idea of how extensive this old plant is in
4 the network or do you?

5 MR. WIERSON: No I don't.

6 MR. YOUNG: Just --

7 MR. WIERSON: But you want to know why
8 -- what I base that on?

9 MR. YOUNG: Sure.

10 MR. WIERSON: I base that primarily on
11 their due diligence, their survey -- their site
12 survey of the network. They selected a couple of
13 central offices to look at in I think Manchester and
14 around Manchester that were servicing a fairly
15 significant amount of subscribers and they did not --
16 they did not look at central offices that more
17 reflect the type that are supporting the people in
18 Vermont. COs that would be servicing maybe 4,000
19 subscribers, more on the edge of the network, out
20 there in the rural areas, and that's where we saw
21 most of these issues with cable plant, and I would
22 have liked Consolidated to have looked at more of the
23 network, gone back and taken a look at the trouble
24 report system, all the trouble reports generated by
25 FairPoint in the system over a couple of years,

1 picked locations. You can't look at the entire
2 network. That's impossible. Nobody has that time,
3 but selected locations, central office locations, RTS
4 locations that were experiencing a high level of
5 trouble reports and visited those sites to look at
6 the cable plant, to look at the condition of the
7 central office facilities, and so forth, and I think
8 they would have got a lot better picture as to what's
9 going on in the depths of this network.

10 BOARD MEMBER HOFMANN: And you don't
11 believe they did that; is that correct?

12 MR. WIERSON: I have no reason -- maybe
13 since I've talked to them last, but since I talked to
14 them the first time they had only looked at a couple
15 of central offices. They had driven, as we stated
16 earlier, down some major highways to look at cable
17 plant, but they hadn't been out on the dirt roads in
18 the rural areas looking at the plant out at the edge
19 of the network and that's where you tend to find
20 issues.

21 BOARD MEMBER HOFMANN: And when did you
22 last speak with them?

23 MR. WIERSON: It was a couple of months
24 ago.

25 MR. YOUNG: So based upon that, I'll

1 switch topics to the due diligence into the issue you
2 just raised, is there something we should be doing in
3 this sale or in any order approving or disapproving
4 or whatever happens technically the sale of assets,
5 to address that concern?

6 MR. WIERSON: No except for this
7 maintenance and logistics plan that I have talked
8 about kind of addressing that and addressing some of
9 these issues in that plan after they take control of
10 this network. I think at this point you don't have a
11 lot to gain. I do believe strongly, I believe, and
12 this is my belief based on their business case, that
13 I think they have a lot of motivation to fix this
14 plant if they need to, to deliver the kind of
15 services they want to deliver, and I think that in
16 the long run they will -- they will fix the plant if
17 it's necessary.

18 MR. YOUNG: On a different topic on page
19 19 of your testimony at the top --

20 MR. WIERSON: Page what?

21 MR. YOUNG: 19. Back one page. You
22 state that you asked for all trouble ticket data for
23 2015 and 2016 and you got three months worth?

24 MR. WIERSON: Yes.

25 MR. YOUNG: Were you able to draw

1 sufficient conclusions from the three months worth?

2 MR. WIERSON: I was able to draw some
3 conclusions. I mean the conclusions we've talked
4 about from those three months I could have -- I wish
5 they would have provided me the raw information and
6 not filtered information, and we would have had a
7 chance to look at two years worth of data because in
8 two years you can see trends of what's happening. We
9 could see trends of what's happening with the cable
10 plant, how many trouble tickets they had two years
11 ago versus today, and that is very informative to
12 look at trends and things like that. They could have
13 told us a lot more.

14 MR. YOUNG: But the Department didn't go
15 back to ask for the additional data after getting the
16 three months?

17 MR. WIERSON: No. We asked for it and
18 never got it. No. We never -- we never expected to
19 get it because we asked for it once and they didn't
20 provide it.

21 MR. YOUNG: Okay. Page 23 of your
22 testimony starting at line 18 you state here that you
23 recommend that the staff retention plan be developed
24 by Consolidated within three months after approval.
25 Do you see that?

1 MR. WIERSON: Yes.

2 MR. YOUNG: Is there any particular
3 reason that you're asking for that after approval
4 rather than before approval or before final order?

5 MR. WIERSON: Well they could provide it
6 before, but I think afterwards they are going to know
7 what staff that entails. I don't know if they know
8 at this point what staff that will entail that they
9 needed to attain.

10 MR. YOUNG: Thank you very much.

11 BOARD MEMBER CHENEY: I have a question
12 related to that last bit. On the same page, page 23,
13 numbers 2 and 3 represent two recommendations. One
14 you've discussed at some length, the maintenance and
15 logistic plan within a year in this case, but then
16 the recommendation to have a staff retention plan are
17 those two recommendations related or do they stand
18 alone?

19 MR. WIERSON: They stand alone. Yes.

20 MS. FABRIZIO: I just had a quick
21 followup on questions from Mr. Young.

22 MR. WIERSON: Okay.

23 MS. FABRIZIO: As we've reviewed you
24 reported that you requested two years worth of
25 trouble ticket reports and got three months. Were

1 you given an explanation as to why the two years were
2 not provided?

3 MR. WIERSON: No.

4 MS. FABRIZIO: And you concluded that
5 you were not able to do a full analysis of the
6 network condition as a result?

7 MR. WIERSON: Yes.

8 MS. FABRIZIO: And you also expressed
9 concern on page 20 that Consolidated may not have a
10 full appreciation of the network condition based on,
11 as you've just testified, perhaps quick and less than
12 thorough due diligence site visits --

13 MR. WIERSON: Right.

14 MS. FABRIZIO: -- in the state. Should
15 the Board be concerned about approving this type of
16 transaction without more of a comfort level that the
17 company that is acquiring FairPoint has full
18 knowledge of what they are getting into and does a
19 post closing forward looking CapEx plan? Is that an
20 adequate remedy for this weakness?

21 MR. WIERSON: I think you should have
22 some concern, but again as I stated earlier I think
23 just to have that plan developed after they take
24 control I think they can develop that plan a lot
25 better than they can now once they take control.

1 They have looked at the network and they have looked
2 at their resources, they have looked at FairPoint's
3 plan and then they incorporate it into their own
4 structure, however they do things before, but again I
5 think that there's -- their motivation is to provide
6 high speed DSL service, and to do that they are going
7 to have to have a good copper plant to run that over,
8 and so it's going to be their objective as well. So
9 I think from that standpoint you can rest assured it
10 will happen.

11 MS. FABRIZIO: And you were here
12 yesterday and heard their testimony?

13 MR. WIERSON: Yes.

14 MS. FABRIZIO: Did their testimony here
15 provide you additional comfort for lack of a better
16 word?

17 MR. WIERSON: No additional information.
18 I knew most of them already. I know they are very
19 capable at what they do and what they do. I know
20 they have some good plans. I know they have a good
21 escalation process within their company which is
22 going to help significantly that FairPoint did not
23 have. So from a management structure I'm very
24 confident they are going to do a good job.

25 MS. FABRIZIO: Thank you.

1 CHAIRMAN VOLZ: Any followup to our
2 questions?

3 MS. BOUFFARD: I have some followup.

4 CHAIRMAN VOLZ: Okay. Why don't you
5 start.

6 BY MS. BOUFFARD:

7 Q. Mr. Wierson, you don't know the condition of
8 the FairPoint network either, do you?

9 A. No.

10 Q. And your recommendation here about --

11 A. Only for the trouble reports that I got for
12 three months which were disturbing to some extent.

13 Q. But your recommendation about replacing copper
14 is based on the information you shared with us about the
15 EPA recommendations, correct?

16 A. Yes and my own experience with networks of
17 this kind.

18 Q. And you've agreed, and I think you already
19 said this, that it wouldn't be possible for a company who
20 is looking at acquiring an asset to come in and look at
21 the whole plant, correct?

22 A. Yes.

23 Q. Can you take a look at page 9 of your
24 testimony, line 20, and you indicate there that -- you
25 have a discussion there about review by Consolidated of

1 the paper insulated copper cables, and they indicate that
2 the quality -- this is in your testimony, the quality of
3 the engineering, materials, and equipment used by
4 FairPoint generally looked good and are aligned with the
5 overall telecommunications standards of deployment,
6 correct?

7 A. Yes.

8 Q. So what was reviewed by Consolidated in terms
9 of the copper lines from their perspective looked good and
10 was aligned with what they would expect, right?

11 A. Yes.

12 Q. And you heard testimony yesterday that the due
13 diligence in terms of reviewing the plant is continuing
14 and Consolidated is doing even more of it, right?

15 A. Yes. I heard that. Yes.

16 Q. Your testimony doesn't contain a
17 recommendation that the Board impose a specific time frame
18 for when copper needs to be replaced, correct?

19 A. Correct.

20 Q. And what you have indicated today is that
21 there is already an incentive from a business perspective
22 for Consolidated to make replacements when it makes sense
23 for them, right?

24 A. Yes.

25 MS. BOUFFARD: I don't have any further

1 questions.

2 BOARD MEMBER HOFMANN: I have one
3 followup based on that. I thought I heard you say
4 you would actually recommend that they replace the
5 old copper be replaced over maybe a two-year period?

6 MR. WIERSON: Yes. I think a plan
7 should be put together to replace that old --
8 whatever older -- whatever old copper plant still
9 remains in the network.

10 CHAIRMAN VOLZ: Mr. Phillips.

11 MR. PHILLIPS: I have no questions.

12 CHAIRMAN VOLZ: Mr. Rubin.

13 MR. RUBIN: Yes. I think just one
14 question.

15 CROSS EXAMINATION

16 BY MR. RUBIN:

17 Q. Mr. Wierson, you seem to be placing some
18 reliance on Consolidated's business plan to provide higher
19 capacity services; is that right?

20 A. Yes.

21 Q. From your understanding of their plan did they
22 -- is that plan based on serving all customers in all
23 communities regardless of cost?

24 A. No I don't have that.

25 Q. Thank you.

1 A. Regardless of cost, no.

2 CHAIRMAN VOLZ: Okay. Thank you.

3 MR. BURKE: I have no redirect.

4 CHAIRMAN VOLZ: Okay. Thank you, Mr.
5 Wierson. So we're ready for the next witness.

6 MR. BURKE: Yes and the Department calls
7 Wayne Lafferty.

8 BOARD MEMBER CHENEY: Good afternoon.

9 WAYNE LAFFERTY,

10 Having been duly sworn, testified

11 as follows:

12 DIRECT EXAMINATION AND REBUTTAL

13 BY MR. BURKE:

14 Q. Mr. Lafferty, do you have a copy of your
15 direct testimony -- your direct prefiled testimony and the
16 exhibits marked DPS FWL 1 through DPS FWL 8 with you this
17 afternoon?

18 A. Yes.

19 Q. And do you need to make any corrections or
20 revisions to any of your testimony or your exhibits?

21 A. No.

22 MR. BURKE: Mr. Chairman, I would at
23 this point move to admit Mr. Lafferty's direct
24 prefiled testimony and exhibits DPS FWL 1 through DPS
25 FWL 8.

1 CHAIRMAN VOLZ: Any objection? They are
2 admitted.

3 (The Prefiled Testimony of Wayne
4 Lafferty was admitted into the record.)
5 <http://epsb.vermont.gov/?q=download/114956/27345>

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1 (Exhibits marked DPS FWL 1-8 were
2 admitted into the record.)

3 BY MR. BURKE:

4 Q. I believe I have only one question for you,
5 Mr. Lafferty, at this rebuttal, and you have reviewed Mr.
6 Shultz's rebuttal testimony on behalf of Consolidated
7 Communications, correct?

8 A. Yes.

9 Q. And he describes Consolidated's plans or
10 approach to managing the wholesale business group and with
11 respect they are responding to your direct testimony and
12 recommendations. Can you just provide your response for
13 what you read from Mr. Shultz?

14 A. Sure. If I understand Consolidated's plans
15 and positions related to this issue correctly, they do
16 intend to have a robust wholesale carrier group, but it is
17 not clear -- two points aren't clear and I think they are
18 distinctively different. One is the number of people in
19 that group, and that's probably less important than it is
20 the knowledge of that group which is the second aspect,
21 and I don't think it was clear that the plan was to retain
22 an adequate number of the people that have been doing this
23 work for FairPoint that have that knowledge, and I would
24 think that given that that knowledge is not easy to come
25 by and that the Vermont and the other Northern New England

1 states do have a significant amount of wholesale activity,
2 some of which goes way back in time, that it would be
3 important for the wholesale customers and for the Board to
4 ensure that knowledge is retained for an adequate period
5 of time to make sure that the service to that customer set
6 is not -- you know does not deteriorate or is changed in
7 any meaningful way.

8 Q. And I realize you weren't here yesterday so
9 you didn't hear a lot of the cross examination of the
10 Consolidated witnesses, but would it be fair for me to
11 summarize what you just testified that it would be
12 acceptable if the level of employees within the wholesale
13 group went up or down depending on volume of business, but
14 the primary concern for you is the actual relevant
15 experience within the staff members there?

16 A. Yes. The relevant experience and the
17 knowledge that's embedded in those staff members.

18 MR. BURKE: Okay. And that's all I have
19 for rebuttal testimony.

20 CHAIRMAN VOLZ: Okay.

21 MR. BURKE: Mr. Lafferty is available
22 for cross.

23 CHAIRMAN VOLZ: Okay. Ms. Bouffard.

24 MS. BOUFFARD: I don't have any
25 questions for this witness.

1 CHAIRMAN VOLZ: Okay. Mr. Phillips.

2 MR. PHILLIPS: I don't have anything
3 either.

4 CHAIRMAN VOLZ: Mr. Rubin.

5 MR. RUBIN: No questions.

6 MR. YOUNG: Good afternoon, Mr.
7 Lafferty. Let me ask first you've been in the room
8 today during the testimony; is that correct?

9 MR. LAFFERTY: Yes most of the time.

10 MR. YOUNG: And you heard the testimony
11 of Mr. Smith when I was asking him some questions
12 about cutover of systems. Do you recall that?

13 MR. LAFFERTY: Yes.

14 MR. YOUNG: Do you agree generally with
15 his recommendations on whether there should be any
16 preliminary limitations or conditions related to the
17 cutover of wholesale systems?

18 MR. LAFFERTY: I believe -- yes I
19 believe there should not be -- if what you're
20 referring to is a wholesale cutover of, you know, the
21 entire territory at one time, I would agree that that
22 would not be appropriate.

23 MR. YOUNG: I was referring to -- I
24 asked him whether it would be appropriate to require
25 prior Board approval, whether there was a need for

1 third party verification, and there were a couple
2 other similar questions. I can go through the whole
3 list and I was just wondering whether you agreed with
4 his recommendations on that subject?

5 MR. LAFFERTY: Yes I do.

6 MR. YOUNG: I had a curiosity. On page
7 15 and 16 of your testimony you have recommendations
8 related to modification of interconnection
9 agreements. Do you recall that testimony?

10 MR. LAFFERTY: Yes.

11 MR. YOUNG: I'll give you a second to
12 turn there.

13 MR. LAFFERTY: Yes. Page 15. Yes.

14 MR. YOUNG: I think I was a little
15 puzzled when I read these recommendations and perhaps
16 you can correct me. My understanding was that any
17 change in the interconnection requirements still had
18 to meet the requirements of the Telecom Act and be
19 subject to Board approval under Section 252, isn't
20 that correct?

21 MR. WIERSON: Yes.

22 MR. YOUNG: And that would basically
23 mean that Consolidated doesn't have any unilateral
24 authority anyway to change those ICAs?

25 MR. LAFFERTY: I don't believe that they

1 would have unilateral authority, but I also don't
2 believe that this proceeding and change of ownership
3 should trigger any requirements in that area either.
4 However, if both parties in this case after close
5 Consolidated and the other -- the other carrier
6 involved in the agreement would like to make a change
7 for some reason, they shouldn't be precluded from
8 doing that. I think that's what I have also said.

9 MR. YOUNG: Through a bilateral
10 arrangement?

11 MR. LAFFERTY: Correct.

12 MR. YOUNG: Attached to your testimony
13 is exhibit DPS FWL 2 and I'll give you a chance to
14 turn there.

15 MR. LAFFERTY: I've got it.

16 MR. YOUNG: These are the wholesale
17 conditions from Docket 7270; is that correct?

18 MR. LAFFERTY: Yes.

19 MR. YOUNG: Now is it your
20 recommendation that the Board retain these conditions
21 on a going forward basis?

22 MR. LAFFERTY: It is my recommendation
23 that the Board retain conditions that are still
24 applicable. Some of the conditions from the prior
25 docket I believe had time years associated with them

1 that have expired by now, but any condition which is
2 still applicable which is still in force should be
3 retained in such a manner that Consolidated would be
4 in a sense stepping directly into the shoes that the
5 Department and FairPoint currently has.

6 MR. YOUNG: One of those conditions that
7 has a three-year provision in it is condition 59 at
8 the bottom of page 1 top of page 2. Do you see that?

9 MR. LAFFERTY: Correct.

10 MR. YOUNG: Is that something that as
11 you just stated by its own terms is no longer
12 applicable because it had at least three years. Is
13 there any reason to apply that type of condition on a
14 going forward basis now?

15 MR. LAFFERTY: Yes I believe there is
16 which is why it was included. To the extent -- and
17 this specifically addresses reclassifying wire
18 centers is not impaired. So the point I think is if
19 they are not impaired under FairPoint on the day the
20 transaction closes -- excuse me, in this case
21 Consolidated should not take action to change that
22 situation subsequent to close.

23 MR. YOUNG: And you recommend the Board
24 should adopt this for the three-year period with this
25 closing?

1 MR. LAFFERTY: Yes.

2 MR. YOUNG: And just for the record what
3 is the significance of classifying a wire center as
4 non-impaired?

5 MR. LAFFERTY: It impacts the ability
6 for competitors to get access to facilities in that
7 wire center.

8 MR. YOUNG: Such as dark fiber?

9 MR. LAFFERTY: I'm not sure about dark
10 fiber any more, but, you know, certainly like loops
11 and things that -- facilities they may need to
12 directly compete.

13 BOARD MEMBER HOFMANN: Maybe so I
14 understand the answer a little bit why would you --
15 I'm not sure about dark fiber?

16 MR. LAFFERTY: Frankly the rules have
17 evolved recently in that area and I don't know what
18 recent requirements the FCC may have said on that or
19 the Board.

20 BOARD MEMBER HOFMANN: Thank you.

21 MR. LAFFERTY: So it's basically
22 designed to keep things the same for competitors for
23 a period of time after the transaction as it was for
24 the competitors prior realizing that regulatory rules
25 evolve and change and that's certainly beyond the

1 control of FairPoint or Consolidated.

2 MR. YOUNG: Final question I had was
3 really more curiosity. On page 10 of your testimony
4 right at the top you state that FairPoint has not
5 provided the exact number of ICAs. That again is
6 interconnection agreements?

7 MR. LAFFERTY: Correct.

8 MR. YOUNG: With current services
9 provisioned in Vermont.

10 MR. LAFFERTY: Correct.

11 MR. YOUNG: Did you ask for that?

12 MR. LAFFERTY: Yes we did and what was
13 provided which was helpful but not complete was how
14 many agreements were in place, but just because an
15 agreement is in place doesn't mean there are services
16 being provided pursuant to that agreement.

17 MR. YOUNG: Okay. So you did get a list
18 -- a total list of the -- or identification of the
19 number of interconnection agreements. You just
20 didn't get it broken down by who is actually taking
21 service under those?

22 MR. LAFFERTY: We got a list of the
23 total number of carriers that had an agreement and
24 were operating or that were authorized to operate,
25 but not -- again the existence of an agreement does

1 not mean the existence of service necessarily.

2 MR. YOUNG: Right. And just to be clear
3 these are interconnection agreements and you did not
4 ask for and presumably did not receive information on
5 commercial agreements, correct?

6 MR. LAFFERTY: I don't know about other
7 portions of the discovery, but the discovery that I
8 was responsible for did not delve into commercial
9 agreements outside of the interconnection
10 requirements, whether it be with any -- for any kind
11 of customer.

12 MR. YOUNG: Thank you. That's all I
13 have.

14 CHAIRMAN VOLZ: Any followup to our
15 questions?

16 MS. BOUFFARD: No.

17 MR. PHILLIPS: No.

18 CHAIRMAN VOLZ: Any redirect?

19 MR. BURKE: I have no redirect.

20 CHAIRMAN VOLZ: Great. Thank you.

21 MR. LAFFERTY: Thank you.

22 MR. BURKE: The Department calls Mr.
23 Joel Jeanson -- excuse me I've been mispronouncing
24 his name -- to the stand.

25 BOARD MEMBER CHENEY: Good afternoon,

1 Mr. Jeanson.

2 MR. JEANSON: Thank you.

3 JOEL JEANSON,

4 Having been duly sworn, testified
5 as follows:

6 DIRECT EXAMINATION AND REBUTTAL

7 BY MR. BURKE:

8 Q. Mr. Jeanson, do you have in front of you a
9 copy of your prefiled direct testimony?

10 A. Yes I do.

11 Q. And do you also have copies of the exhibits
12 marked DPS JFJ 1 through DPS JFJ 9?

13 A. Yes I do.

14 Q. Excuse me. That should read 8. I apologize.

15 A. Yes.

16 Q. Okay. Is there any need to make any
17 corrections or revisions to your prefiled direct
18 testimony?

19 A. No there are none.

20 Q. Or any of your exhibits?

21 A. No.

22 MR. BURKE: At this point, Mr. Chairman,
23 I would like to move into the record the direct
24 prefiled testimony for Mr. Jeanson and the exhibits
25 marked DPS JFJ 1 through DPS JFJ 8.

1 CHAIRMAN VOLZ: Okay. They are
2 admitted.

3 (The Prefiled Testimony of Joel Jeanson
4 was admitted into the record.)
5 <http://epsb.vermont.gov/?q=download/1114954/27345>

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1 (Exhibits marked DPS JFJ 1-8 were
2 admitted into the record.)

3 BY MR. BURKE:

4 Q. Mr. Jeanson, we've had a lot of discussion
5 over the past few days regarding a reinvestment
6 requirement and you have been present for all of the
7 witnesses in the hearing room, correct?

8 A. Not yesterday morning.

9 Q. Okay. And you're the witness that presented
10 this recommendation in the first instance; is that
11 correct?

12 A. That's correct.

13 Q. And we have had a lot of discussion about the
14 effects of what the 14 percent reinvestment requirement
15 will be, but I'm wondering if you can provide some context
16 for first how you arrived at the 14 percent number and
17 what the intention was in developing the recommendation
18 generally?

19 A. Sure. I would be happy.

20 Q. You can break that up. I'm sorry for giving
21 you a two-part question.

22 A. The first thing we did was we requested a copy
23 of the Consolidated financial model for the transaction
24 and that contained a variety of data including the planned
25 or proposed CapEx spend for Consolidated stand alone,

1 FairPoint stand alone, and on a combined basis, and for
2 FairPoint stand alone it gave the percent both for
3 historical period and in the projected period through 2024
4 and it did that on the Consolidated basis as well. So we
5 looked at that information.

6 Q. And I just want to caution I know we've
7 discussed this, but I want to remind you not to use any
8 specific information that would be marked as confidential.

9 A. Right. Trying to be careful. And so we based
10 the 14 percent looking at the information in the model for
11 both FairPoint on a stand alone basis and the combined
12 companies, and we -- the intention was to make sure that
13 Vermont was able to get its share of the CapEx as planned
14 in the financial model, and the 14 percent fit well with
15 the historical information for FairPoint on a stand alone
16 basis. It was slightly higher over the forecast period
17 than what was in the model, but not to the point where it
18 was at the level for the combined companies.

19 Q. And based on the analysis that you have done
20 you believe that the 14 percent is a reasonable target for
21 the company to achieve? In other words, it's not overly
22 burdensome based on the projections you have seen?

23 A. No, and we've looked at the annual reports for
24 the Vermont companies and the proposal is based on total
25 revenues for all of the operating companies. It appeared

1 that the 14 percent is generally in line with what the
2 historical spend has been over the last four or five
3 years. It's also reasonably in line with the depreciation
4 expense for 2016.

5 Q. And your recommendation in the prefiled
6 testimony was that this condition be carried out over a
7 period of five years. Can you explain generally why
8 there's a time limit in your recommendation for the
9 requirement? What the motivation was for that?

10 A. Well we didn't -- we didn't think it was fair
11 to commit to a level spending for some indefinite time
12 period. It's been clearly identified by some of our other
13 witnesses that there are service quality issues that
14 ensure capital dollars are devoted to those to help remedy
15 some of those problems. So we wanted to make sure that
16 there were capital dollars available in the State of
17 Vermont --

18 Q. Would it be --

19 A. -- for those purposes.

20 Q. Would it be fair to describe the requirement
21 as a minimum level of expected investment for a transition
22 period post merger? Is that a fair assessment?

23 A. Yes.

24 Q. And again I mentioned you had recommended
25 initially five years for the requirement and the company

1 has in response requested a condition that would be
2 limited to three years. Is there any -- for you any
3 significant difference between a three or five-year
4 requirement and would it be okay to have a three-year
5 requirement?

6 A. I think a three-year requirement would be
7 fine. In proposing a five-year requirement part of our
8 thought process was that spending needs may vary from
9 year-to-year and some years being above the 14 percent and
10 other years below, and extending it to a five-year period
11 would give the company some additional flexibility as to
12 the timing of this spend. Limit it to a three-year period
13 and it reduces that flexibility, but we think it will
14 still accomplish many of the things that need to be
15 accomplished.

16 Q. And part of the reason why I've asked that
17 question is you have also made a recommendation for a
18 three-year capital plan and I just wanted to make sure you
19 could clarify why there might have been an inconsistency
20 why there's a three-year recommendation for the capital
21 plan and a five-year recommendation for the actual
22 investment?

23 A. Yeah we viewed those as somewhat separate
24 issues I would say in developing our conditions. The
25 three-year capital plan was intended to be a detailed

1 plan. We think a three-year window for doing that is
2 reasonable. Thinking we can come up with detail at the
3 project level for years four and five is going to be more
4 difficult and less likely to do in an accurate way.

5 Q. And when you talk about the 14 percent of
6 revenue what revenue sources were you referring to or what
7 was the basis for the 14 percent of which monies we should
8 expect to be included?

9 A. The intention was to have it be total revenue
10 similar to what was modeled in the financial model.

11 Q. So you drew that 14 percent from what was in
12 the models that we received in discovery?

13 A. Yes.

14 Q. And you were present for Mr. Winn's rebuttal
15 testimony?

16 A. I was.

17 Q. And you heard him discuss the Department's
18 position with respect to the dividend; is that correct?

19 A. Yes.

20 Q. And do you have any reason to disagree with
21 anything you heard from Mr. Winn this morning?

22 A. I do not.

23 MR. BURKE: I think that's all I have
24 for you for your rebuttal testimony. Mr. Jeanson is
25 available for cross examination.

1 CHAIRMAN VOLZ: Okay.

2 CROSS EXAMINATION

3 BY MS. BOUFFARD:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. Just one or two questions here to follow up on
7 the last question from Mr. Burke. He asked you if you had
8 heard the testimony from Mr. Winn this morning with
9 respect to the dividend request?

10 A. Yes.

11 Q. And just to be clear you said that you agreed
12 with those recommendations, correct?

13 A. Yes.

14 Q. And specifically you are in agreement with the
15 Department's recommendation that an alternative to some
16 type of link to the dividends would be acceptable in this
17 situation, correct?

18 A. Yes.

19 MS. BOUFFARD: Thank you. That's all I
20 have for this witness.

21 CHAIRMAN VOLZ: Okay. Mr. Phillips.

22 MR. PHILLIPS: I have no questions.

23 CHAIRMAN VOLZ: Mr. Rubin.

24 MR. RUBIN: Yes. Just briefly.

25 CROSS EXAMINATION

1 BY MR. RUBIN:

2 Q. Good afternoon, Mr. Jeanson.

3 A. Good afternoon.

4 Q. If I understand what you just discussed with
5 counsel, you said that FairPoint's projections in the
6 financial model were based on total revenues not regulated
7 revenues?

8 A. That's correct.

9 Q. And were projections in that model -- were
10 there any projections in that model on a Vermont specific
11 basis?

12 A. No.

13 Q. So your recommendation was designed to
14 essentially hold -- well sorry. Let me back up a second.
15 Did the model have any information projecting capital
16 spending in Vermont?

17 A. No it did not.

18 Q. Did you calculate what the equivalent
19 percentage would be if the model had used regulated
20 revenues and not total revenues?

21 A. No I did not.

22 Q. Do you know -- I mean obviously if you use
23 regulated revenues the denominator is smaller so the
24 percentage gets larger, correct?

25 A. Correct.

1 Q. Do you have a sense for how much larger that
2 percentage gets?

3 A. I'm not entirely sure. I think it's possible
4 that non-regulated revenues could be in the 25 percent to
5 33 percent of regulated revenues I believe.

6 Q. So if your 14 percent -- sorry. In your
7 testimony you recommended a capital spending floor for
8 five years of 14 percent of total revenues, correct, and
9 if I understand your testimony today you've said if you
10 reduce that to three years that would be okay?

11 A. Yes.

12 Q. And what we heard I believe from Mr. Shultz
13 yesterday was Consolidated suggesting 14 percent of
14 regulated revenues rather than total revenues. Is that
15 your understanding?

16 A. Yes.

17 Q. And for Vermont do you know how 14 percent of
18 regulated revenues compares to 14 percent of total
19 revenues?

20 A. Not off the top of my head, but it would be --
21 I mean it would be noticeably less obviously.

22 Q. And is that acceptable to you to have that
23 floor being reduced by some noticeable amount?

24 A. No it would not be.

25 MR. RUBIN: That's all I have.

1 CHAIRMAN VOLZ: Turning to page 5 of
2 your testimony the top of the page there's a bullet
3 there that you say Consolidated should be required to
4 provide to the Board and the Department the synergies
5 plan and the Vermont specific components and amounts
6 of the plan especially related to head count
7 reductions prior to announcement to employees or any
8 other stakeholders. What do you envision you would
9 do once we get that plan?

10 MR. JEANSON: It's my understanding that
11 part of this proceeding is to determine whether or
12 not the transaction's in the public good. Part of
13 the determination of the public good is what the
14 impact may be on employment, and so I think having
15 that information would be of value to the Board in
16 making that determination.

17 CHAIRMAN VOLZ: So you would want to get
18 that plan before we rule on this proceeding? I
19 understood it to be something they would file
20 assuming we approved this and they were going
21 forward, but maybe I misunderstood. This would be a
22 condition of approval?

23 MR. JEANSON: Well I'm not sure when.
24 We just said prior to the announcement of employees
25 and other stakeholders. I'm not entirely sure when

1 that would be.

2 CHAIRMAN VOLZ: I think the sequence of
3 events, if I read your testimony, would be assuming
4 we approve this transaction and go forward with the
5 merger, then you want them to file with us the
6 synergies plan and the Vermont specific components
7 and then -- and specifically the head count
8 reductions prior to announcement to employees and
9 other stakeholders and have us do something with
10 that.

11 MR. JEANSON: I think it would be
12 similar to what we have also recommended with regard
13 to the capital plan which would be six months later
14 and make a determination once we see the detail is
15 there anything that we might take issue with and need
16 to do something that would fall into that category.

17 CHAIRMAN VOLZ: Are you suggesting we
18 would be substituting our judgment for the judgment
19 of management in this aspect of this synergies plan
20 and the decision about how many employees to have and
21 how to deploy them? I'm just trying to understand
22 what you're proposing because I've never seen
23 anything like this before. Have you ever encountered
24 another jurisdiction where something like this has
25 been put in place for a utility?

1 MR. JEANSON: The only reason it's in
2 place here is that we don't have that information in
3 hand now in order to make a determination as to what
4 the potential impact is.

5 CHAIRMAN VOLZ: Okay.

6 MR. JEANSON: And we think at some point
7 in time it would be worthwhile for the Board to
8 understand what the implication is and we don't have
9 it now so we wanted to make the condition at some
10 point in time --

11 CHAIRMAN VOLZ: And you don't think --

12 MR. JEANSON: -- the Board would have
13 that opportunity.

14 CHAIRMAN VOLZ: And you don't think the
15 quality of service plan and the standards we might
16 put in place for the quality of service is adequate
17 to manage all aspects of the quality?

18 MR. JEANSON: Well it's our
19 understanding part of the scope of what you were
20 doing was beyond just service quality, but it was to
21 determine economic impacts for the State of Vermont
22 and other things.

23 CHAIRMAN VOLZ: Okay.

24 MR. JEANSON: And so it would fall into
25 -- I mean it's possible there's service quality

1 concerns as well with head count reductions.

2 CHAIRMAN VOLZ: You were thinking --

3 MR. JEANSON: It may be more broad than
4 that then.

5 CHAIRMAN VOLZ: So you were thinking
6 economic impacts on the State of Vermont; a large
7 employer reducing their number of employees?

8 MR. JEANSON: Well that was one of the
9 considerations we were asked to think about as we did
10 our evaluation, but clearly considering the potential
11 impacts on service quality is critical as well.

12 CHAIRMAN VOLZ: All right. Thank you.

13 MR. YOUNG: I just had -- I had a
14 similar question because you stated part of your
15 rationale for doing this was to make sure the
16 transaction's in the general good, but if you do it
17 after the transaction's occurred, it's a little late
18 to unwind the transaction and I was trying to
19 reconcile those two statements. Can you help me?

20 MR. JEANSON: Right. One of the
21 difficulties we have had throughout is the lack of
22 Vermont specific information and so we've attempted
23 to form an opinion and establish conditions based on
24 the information that's been made available, and this
25 falls in the camp of if we had had more information

1 we could have recommended something different. The
2 lack of information says that it would be good to
3 take a look at the plan before it's announced and
4 before there's an opportunity I guess --

5 CHAIRMAN VOLZ: Okay.

6 MR. JEANSON: -- to do something about
7 it.

8 CHAIRMAN VOLZ: If we put this in place
9 and they provide us the information prior to
10 announcement to employees or any of their
11 stakeholders, I guess I don't understand how -- we
12 wouldn't be able to deal with that information that
13 was not public. We would have to have a closed
14 hearing and one of the parties to this proceeding
15 wouldn't be able to participate because they
16 represent the employees and there may be other
17 stakeholders who want to participate. I don't know
18 how we could -- if we got this information how we
19 would ask for comments on it. I guess I'm just
20 trying -- I guess I'll ask the Department to brief
21 this, what is it exactly they want us to do with this
22 if they are actually recommending that we get this
23 after the transaction -- after the merger has
24 happened.

25 MR. BURKE: I understand that, Mr.

1 Chairman.

2 CHAIRMAN VOLZ: So if we were to follow
3 this and we got parties who we shared the information
4 with including the Department and they said well we
5 don't think the head count reduction is right we
6 think it should be different, are we going to then
7 say well order the company to do a different head
8 count to not -- to hire a different level of
9 employees? I guess I'm having a hard time following
10 this all the way out as to how we would do this and
11 what the ramifications might be, and if you have
12 examples in other jurisdictions where public utility
13 commissions have determined what level of employees
14 utilities should have to do their job, I would be
15 interested to see some precedent on that.

16 MR. JEANSON: I do not.

17 CHAIRMAN VOLZ: Sounds to me like a real
18 intrusion into management's area; that they get their
19 rate of return for managing and it's not necessarily
20 something I think I would be surprised -- I'm a
21 little bit concerned about inserting the Board and
22 the Department into that role. That's all.

23 BOARD MEMBER HOFMANN: But we would just
24 ask the Department to brief it please.

25 MR. BURKE: Certainly I can do that for

1 you, Mr. Chairman.

2 MR. YOUNG: Next topic down on line 8,
3 and actually I'm going to ask you more specifically
4 about line 9, this is your request for a plan for
5 specific capital investments. Do you see that?

6 MR. JEANSON: Yes.

7 MR. YOUNG: You state here that you're
8 asking for a firm three-year plan. Do you see that?

9 MR. JEANSON: Right.

10 MR. YOUNG: As I recall the testimony
11 yesterday Consolidated had basically agreed to this
12 except they don't want to be necessarily held to the
13 out years because over a three-year period things
14 change. Would that be consistent with your
15 recommendation?

16 MR. JEANSON: We noticed that where they
17 would agree to one year and then things change --
18 circumstances change that resulted in changes to this
19 plan as presented that they wanted the freedom to
20 make those changes. Clearly when we're saying firm
21 three-year plan it wasn't with the intention that in
22 year two we just pretend we didn't have this plan we
23 do what we want to do. This is tied to the level of
24 funding minimum 14 percent. It's tied to issues that
25 have been raised by the other witnesses about service

1 quality and the need to spend money to remedy certain
2 things.

3 I think the primary issue here is that
4 there's at least an understanding reached as to a
5 commitment of spend beyond year one that could be
6 used to remedy some of those issues. If they need
7 additional flexibility, for example, related to some
8 of the programs in spending that may be related to
9 servicing a specific customer and if they call them
10 success based I'm not sure that would be of concern
11 to the Board, but I think the Board should obtain
12 some sort of firm plan that would at least address
13 spend issues associated with service quality
14 spending. Whether it's firm for everything I think
15 there -- some flexibility there would not be
16 inappropriate.

17 MR. YOUNG: Let me move to a bunch of
18 your testimony and a number of your exhibits address
19 your stress test. Do you recall that?

20 MR. JEANSON: Yes.

21 MR. YOUNG: Am I correct that when you
22 did your analysis you didn't -- you did it at sort of
23 a what I will call gross level, revenues drop without
24 attempting to assess potential causation for those
25 changes; is that correct?

1 MR. JEANSON: That's correct.

2 MR. YOUNG: And your general conclusion
3 as I read the various -- read your testimony is that
4 under the scenarios you analyzed financially this
5 should be fine for Consolidated; is that correct?

6 MR. JEANSON: Yes that's correct. I
7 think we called them practical scenarios and then we
8 had a worst case scenario as well.

9 MR. YOUNG: You included your worst case
10 and your breaking point scenarios also, correct?

11 MR. JEANSON: Yes.

12 MR. YOUNG: And I gather the latter were
13 okay what does it take? How bad does it have to get
14 before we see the debt covenants?

15 MR. JEANSON: Right. The breaking
16 points were designed to identify revenue drops that
17 would cause the company to no longer meet its debt
18 covenant requirements.

19 MR. YOUNG: You testified almost nine,
20 ten years ago on the last transaction; is that
21 correct?

22 MR. JEANSON: That's correct.

23 MR. YOUNG: Is this basically the same
24 type of scenario analysis that you did in conjunction
25 with the FairPoint purchase?

1 MR. JEANSON: We did scenario testing in
2 the last, yeah, transaction as well and it's similar
3 in nature. I wouldn't say that the scenarios -- I
4 didn't go back to the previous work and try to mimic
5 scenarios that would have been completed at that
6 point in time so I don't know if they are the same or
7 not.

8 MR. YOUNG: So you didn't go back and
9 look at what the testimony you had presented before?

10 MR. JEANSON: No I did not.

11 MR. YOUNG: Then I won't bother asking
12 you about comparisons. One other area I wanted to
13 touch on page four of your testimony starting at line
14 7.

15 MR. JEANSON: Yes.

16 MR. YOUNG: I was actually struck when I
17 read this bullet by the following, and I would just
18 like you to react to it. When I read this it says
19 Vermont citizens might be better off if certain
20 things occur. Is that basically your point which is
21 maybe things will be better if steps are first taken
22 to improve the reliability and otherwise you're not
23 sure?

24 MR. JEANSON: Well the Consolidated
25 witnesses clearly testified what they bring to the

1 table and a lot of that's related to additional
2 products and services being available and they have
3 demonstrated that in other jurisdictions. Clearly
4 their intention is to do that here as well.

5 MR. YOUNG: I guess what -- even with
6 that, even with additional products and services your
7 first clause is there's the potential it will be as
8 well or better off. It doesn't say will be better
9 off or likely to be. There's the potential and I was
10 struck at this statement. Was -- is it the
11 Department's view that we're not really sure because
12 that's what I get when I read this paragraph?

13 MR. JEANSON: Right. I think our
14 expectation -- my expectation is that given their
15 track record that there is -- there are likely
16 benefits for the State of Vermont that there will be
17 products and services that will be made available
18 that currently aren't available. That we also really
19 wanted to make the point with this language is that
20 the focus on new products and services is really
21 good, but there are service reliability and data
22 speed issues that need to be addressed as well, and
23 let's not forget that needs to be part of what's
24 brought to the table as well.

25 MR. YOUNG: I have no further questions.

1 Thank you.

2 BOARD MEMBER CHENEY: In fact, when I
3 read that sentence unlike you I didn't see the
4 emphasis on the first part. I saw that rather as a
5 preamble to the second part, and my take away was
6 that your point in that sentence was there need to be
7 steps taken to improve service reliability and
8 increase data speeds, is that correct -- a correct
9 reading of that sentence?

10 MR. JEANSON: That's correct. I mean
11 Consolidated has made it very clear what they have to
12 offer related to new and better products and
13 services. We simply wanted to make sure that we
14 mentioned that you can't lose sight on these other
15 issues as well and that's going to require -- likely
16 require some investments.

17 MS. FABRIZIO: So on pages 10 through 18
18 of your testimony you discuss the stress testing that
19 you have conducted and your analysis of this merger.
20 At page 21 of your testimony lines 8 to 13 you note
21 Consolidated's strong track record of acquisition and
22 assess the risk of this transaction in particular due
23 to the scale of the acquisition, and as you have
24 heard this is the fourth acquisition in five years I
25 believe that Consolidated is undertaking. Did you

1 factor in Consolidated's acquisition strategy into
2 your stress testing, for example, in the event
3 another acquisition were to come through the pipeline
4 in the next few years?

5 MR. JEANSON: No we did not.

6 MS. FABRIZIO: Did that overall strategy
7 raise any potential concerns in your mind?

8 MR. JEANSON: Not necessarily. I mean
9 clearly this is a big transaction and it's going to
10 take a lot of focus on management's part to make it
11 work. If they were to announce tomorrow that they
12 are doing it -- proposing to do it again and double
13 again without having completed this one successfully,
14 then you would wonder about the -- potentially the
15 capacity to do that, but they clearly have a track
16 record of making acquisitions and bringing them in
17 house and then we're down to another one. So the
18 fact they may talk about doing that at some point in
19 time in the future I wouldn't find troubling.

20 MS. FABRIZIO: Thank you.

21 BOARD MEMBER HOFMANN: At the top of
22 page 20 you indicate that Moody's, Standard and
23 Poor's, Jefferies, Drexel-Hamilton, and Raymond James
24 believe the level of synergies expected by
25 Consolidated is achievable. Did you get -- was there

1 background on why they thought these things were
2 achievable for any of these companies?

3 MR. JEANSON: Yeah I think primarily
4 there were a couple things and I couldn't point to
5 which of these are represented by which of these
6 organizations, but if I'm remembering correctly, they
7 typically looked back at prior acquisitions and what
8 had been promised in the way of synergies and what
9 had been achieved and that was part of what they were
10 basing their opinion on, and I believe they were also
11 looking -- basing their opinion as well on the level
12 of synergies that were being projected based on the
13 size of the transaction and their general
14 understanding of what sorts of synergies are
15 typically available in a comparably sized transaction
16 and I suspect it was both of those.

17 BOARD MEMBER HOFMANN: Thank you. And
18 my other area is you were asked I think by Mr. Burke
19 about Mr. Winn's testimony about limiting the
20 dividend as one tool.

21 MR. JEANSON: Yes.

22 BOARD MEMBER HOFMANN: And you agreed
23 with that as being a tool, but you also agreed there
24 could be alternatives. Did you have any alternatives
25 in mind?

1 MR. JEANSON: And I think Mr. Winn also
2 mentioned that in a number of other transactions
3 where there are dividend restrictions it's not on
4 dividends paid to shareholders it's on dividends made
5 from the subsidiary companies up to the parent,
6 restrictions on those. That could be one. Mr.
7 Wierson also mentioned that there could be incentives
8 required that if the investments weren't made the
9 company would have to remedy that, and the benefit
10 would not go to the general fund, but it would go to
11 the company and its customers. I'm sure there are
12 other opportunities to provide the assurance the
13 Board's looking for as well, and I'm sure some of
14 those will surface we've -- that we've not thought
15 about.

16 BOARD MEMBER HOFMANN: Thank you.

17 CHAIRMAN VOLZ: Any followup to our
18 questions?

19 MS. BOUFFARD: I don't have anything.

20 MR. PHILLIPS: No.

21 CHAIRMAN VOLZ: Any redirect.

22 MR. BURKE: I just have one redirect.

23 REDIRECT EXAMINATION

24 BY MR. BURKE:

25 Q. Mr. Jeanson, I think this is pretty clearly

1 expressed in your direct testimony, but I just want you to
2 confirm you have determined that a merged FairPoint and
3 Consolidated would be stronger financially than FairPoint
4 remaining as a stand alone basis; is that correct?

5 A. Yes.

6 MR. BURKE: That's all.

7 CHAIRMAN VOLZ: Okay. Thank you. So
8 have we heard from all the witnesses we're planning
9 to hear from?

10 MR. BURKE: I believe Ms. Bouffard is
11 going to recall one or two of her witnesses.

12 CHAIRMAN VOLZ: Right. Go ahead.

13 MS. BOUFFARD: You're ready for me to do
14 that?

15 CHAIRMAN VOLZ: Yes.

16 MS. BOUFFARD: Consolidated recalls Gabe
17 Waggoner.

18 BOARD MEMBER HOFMANN: How many people
19 are you going to recall, Ms. Bouffard?

20 MS. BOUFFARD: Mr. Waggoner and Mr.
21 Shultz.

22 CHAIRMAN VOLZ: Okay.

23 BOARD MEMBER CHENEY: I remind you, you
24 remain sworn in when your original appearance.

25 GABE WAGGONER,

1 Having been duly sworn, testified
2 as follows:

3 REBUTTAL EXAMINATION

4 BY MS. BOUFFARD:

5 Q. Mr. Waggoner, were you here this morning when
6 Curtis Mills testified with respect to service quality
7 reports for Consolidated in other markets?

8 A. I was.

9 Q. And could you give some background with
10 respect to the service quality standards in Texas?

11 A. Yes. As Mr. Mills articulated they are quite
12 stringent requirements in the State of Texas. It is 90
13 percent of trouble that has to be resolved within 8
14 business hours. So we have 10 trouble tickets come in at
15 8 o'clock in the morning those have to be resolved 90
16 percent, 9 of those 10, by 4 o'clock that afternoon. If
17 you resolve 8 of them by 4 p.m. and you resolve the 9th
18 and 10th by 6:30 that evening, you fail for the day.

19 Q. Other than the stricter standard are there
20 additional factors unique to Texas that have impacted the
21 company's ability with respect to meeting that standard?

22 A. There's some unique attributes to the Texas
23 properties. As I listened to Mr. Mills' testimony it
24 occurred to me it would be helpful to provide some context
25 maybe on the Texas market. So Lufkin, Texas is one of the

1 communities there in Texas, the CCTX entity, and it is
2 about a hundred miles from -- 110 miles from the Gulf
3 Coast. So it is just north of Houston. A lot of weather
4 volatility. Maybe not as seasonal as here. Actually
5 year-round weather volatility being that close to the
6 Gulf; heavy wind, heavy precipitation on a frequent basis.
7 It's also a very dense pine forest area and we have
8 majority of our plant aerial. Much of it rural. You can
9 draw some similarities to this current environment here,
10 but one of the other elements is a very dense iron content
11 in the soil. That sounds very minutiae related, but as we
12 data mine trying to find trends, trying to find wire
13 trouble had escalated, we were able to correlate certain
14 segments of our plant to certain frequencies of lightning
15 damage, and it correlates back to heavy lightning strike
16 beyond any of our other markets with in part that dense
17 soil that is unique. So just some attributes there that
18 make that Lufkin market really challenging.

19 Katy, Texas is the other one, CCFB. Fort Bend
20 it's on the west side of Houston. It's actually closer to
21 the Gulf. Very volatile weather patterns there as well
22 that used to be rice fields and sugarcane fields. So it's
23 a very low lying area, very flood prone. There are no
24 ditches. The streets themselves actually serve as the
25 storm sewers during heavy precipitation. So some very

1 unique challenges that are there in Texas.

2 The other element that makes Texas unique is
3 that it's in proximity to Houston and the job market is
4 extremely competitive there. So we have frequent
5 technician turnover even though these are great jobs.
6 These are actually union represented jobs. There is a lot
7 of turnover and competition for our resources, and so in
8 that time frame that was described we had a tremendous
9 amount of technician turnover. So --

10 Q. Has Consolidated increased its hiring in the
11 Texas market?

12 A. Yes we have. So one thing that we've done
13 repeatedly is continued to backfill all of those
14 replacements. That's a multi-year effort. We didn't
15 shrink the work force. We replaced every technician that
16 went on to other opportunities, but also as we looked at
17 our entire portfolio of tools, practices, et cetera, at
18 the end of the day we said we have to resolve our service
19 issues. We are very focused on our service reputation in
20 our communities, and ultimately we hired four additional
21 technicians net new beyond what the existing staffing
22 levels were. So yes we added technicians in addition to
23 all of the other things that we were doing.

24 Q. Are you familiar with the 2016 service quality
25 data in Texas?

1 A. I am.

2 Q. And were you able to review that today during
3 a break?

4 A. I was.

5 Q. Could you describe generally what's in that?

6 A. Generally -- I wish we would have provided it
7 to Mr. Mills earlier, but that the measures that we took
8 were able to remedy situations that were there. In the
9 Lufkin properties we exceeded 90 percent out of service in
10 24 11 out of 12 months. The one month we missed, which
11 was January of 2016, we achieved 85.8 percent of our
12 out-of-services within 8 business hours.

13 In Fort Bend, the Katy property, we also
14 exceeded the 90 percent benchmark in 11 of 12 months. In
15 -- I'm sorry. In February of 2016 we achieved a 87.43
16 percent out-of-service over 24. So overall we're
17 typically far exceeding 90 percent in each one of those.
18 So one of the observations was how could this go on so
19 long in the past. What I tell you is we were trying a
20 number of different things, but what I would ask the Board
21 to consider is the level of collaboration that we have
22 with our Commissions in different states was in part the
23 explanation why this went on in a longer basis without
24 hearing some final destination on some sort of penalty.
25 We were very transparent, very collaborative with the

1 Texas Commission as we are with every Commission in all
2 the states that we work with.

3 Q. Thank you. Was there anything else that you
4 wanted to address that you heard today during Mr. Mills'
5 discussion of the Texas service quality reports?

6 A. I don't believe so.

7 MS. BOUFFARD: Thank you.

8 BOARD MEMBER HOFMANN: I have one
9 followup which is so you added four more technicians
10 in that one Texas area; is that correct?

11 MR. WAGGONER: In addition to replacing
12 10 technicians that had left periodically over the
13 year or two time period.

14 BOARD MEMBER HOFMANN: And is it fair to
15 say that you added the four to continue -- to try to
16 meet the Texas -- what you called a very strict
17 standard in Texas in terms of troubles cleared?

18 MR. WAGGONER: Yes. Whether it be
19 extremely stringent or not that is the benchmark
20 that's set. That's what we're going to strive to
21 achieve even though it is different in other markets.
22 We know that there are 5,000 new homes in that Texas
23 property. 200 cabinets that are going to be set
24 because of CAF II. We know that will also improve
25 service quality, but we were not satisfied with being

1 complacent and saying hey give us another two or
2 three years and this will fix itself. We resourced
3 up in addition to deploying tools, practices that we
4 do.

5 BOARD MEMBER HOFMANN: Thank you.

6 MR. YOUNG: One clarification. When you
7 were describing your performance and experience there
8 twice you stated something about the 90 percent in 24
9 standard. Other times you said 90 percent in 8 hours
10 standard. Were those intended to be different
11 standards or was --

12 MR. WAGGONER: I live in a lot of
13 different states. Illinois is 24 hours. Texas is 8
14 business hours.

15 MR. YOUNG: So the references you had
16 should all be 24 -- or 90 percent in 8 hours?

17 MR. WAGGONER: In 8 business hours, yes.

18 BOARD MEMBER HOFMANN: When you're
19 talking about Texas?

20 MR. WAGGONER: When I'm talking about
21 Texas. When I'm in Houston.

22 MR. YOUNG: Thank you.

23 CHAIRMAN VOLZ: Any other questions for
24 this witness?

25 MR. PHILLIPS: No.

1 MR. BURKE: I have nothing.

2 MR. RUBIN: No.

3 CHAIRMAN VOLZ: Great.

4 MS. BOUFFARD: Thank you. Consolidated
5 recalls Mike Shultz.

6 BOARD MEMBER CHENEY: Welcome back and I
7 will just remind you that you remain under oath.

8 MR. SHULTZ: Yes.

9 MICHAEL SHULTZ,

10 Having been duly sworn, testified

11 as follows:

12 REBUTTAL EXAMINATION

13 BY MS. BOUFFARD:

14 Q. Good afternoon. In the course of the last few
15 days and considering the information that has been
16 presented has Consolidated taken another look at the
17 Department's proposal with respect to the minimum capital
18 investment?

19 A. Yes. After hearing testimony and discussion
20 both with staff and consulting FairPoint and just the
21 questions from the Board I think I probably tried to
22 overcomplicate things. So from that perspective
23 Consolidated is very comfortable with the original
24 proposal from staff of 14 percent on total revenue for the
25 State of Vermont which would include both ILECs as well as

1 both non-regulated entities, enhanced communications as
2 well as I think it's -- I can't think of the other name,
3 but both non-reg entities. I think that will simplify the
4 process going forward.

5 Q. Mr. Shultz, were you here this afternoon when
6 Mr. Wierson discussed a recommendation to replace the
7 copper -- all of the copper cable plant in Vermont in the
8 next two years?

9 A. Yes.

10 Q. How would such a condition impact
11 Consolidated's view of this transaction?

12 A. I would -- it would make it very difficult to
13 accept that condition. It would put -- it would be a very
14 expensive proposition to try and implement and replace all
15 of the copper fed network. I think it's just impractical
16 to try and do that and it would put probably in jeopardy
17 the transaction in that regard.

18 CHAIRMAN VOLZ: By in jeopardy the
19 transaction I take it you mean Consolidated would
20 have to think hard about whether they would actually
21 want to go forward or not?

22 MR. SHULTZ: Correct.

23 BY MS. BOUFFARD:

24 Q. Were you present today when Miss Flint
25 discussed the side letter that FairPoint has agreed to

1 with respect to treatment of medically vulnerable
2 prioritization?

3 A. Yes. Yes I was.

4 Q. And what is Consolidated's position on that?

5 A. We will agree to the side letter. Our concern
6 is we're in multiple states and this would be a different
7 policy. We are in a state -- we have a state -- I
8 shouldn't say -- we are in a state -- we have a state that
9 we serve that's a little more litigious than most, and we
10 have to cover ourselves with having some form of record to
11 ensure that type of activity so that they are actually
12 medically vulnerable. So it kind of protects the company
13 as well. So it's something we need to talk about as we go
14 forward, but we're willing to agree to a side letter and
15 discuss it at the many quarterly meetings we'll have over
16 the next few years.

17 BOARD MEMBER CHENEY: Just to be clear
18 what is that more litigious state?

19 MR. SHULTZ: Do I have to say that on
20 the record? It's very left of here. It's very left
21 of here.

22 BY MS. BOUFFARD:

23 Q. Were you here this morning when Mr. Winn
24 discussed a dividend restriction with respect to
25 Consolidated?

1 A. Yes.

2 Q. Could you describe that for us?

3 A. Absolutely. That was in reference to our
4 Illinois -- Consolidated Telephone Company in Illinois and
5 back in the original IPO transaction they did put a
6 condition on the subsidiary, but not on the holding
7 company. That restriction was lifted in 2014.

8 Q. Were you also here today when we had a
9 discussion with Mr. Smith regarding stress and volume
10 testing for system integration if this transaction was
11 approved?

12 A. Yes.

13 Q. And can you describe for us the stress and
14 volume testing that Consolidated does do in connection
15 with system integration?

16 A. I can try. I did have a conversation in one
17 of our breaks with our CIO Steve Shirar, and prior to any
18 project -- major integration project we do, we do set a
19 stress test and volume test the system to ensure that it
20 can comport with what is going to be coming over. So
21 before we get into the actual user testing and parallel
22 testing and just the identification of what systems are
23 going to convert we will test -- user test or, excuse me,
24 stress test and volume test the system. So we did do that
25 prior to the Surewest conversion and we will do it prior

1 to this conversion and any other conversion as well,
2 especially one of this size.

3 Q. Were you also present earlier today when
4 witnesses discussed the maintenance -- discussed
5 submitting a maintenance and logistics plan to the Board
6 and the Department in connection with this transaction?

7 A. Yes I was.

8 Q. Is Consolidated willing to submit at some
9 point a maintenance and logistics plan?

10 A. Yes.

11 Q. And just to be clear we would be talking about
12 submitting that plan after the transaction if it was
13 approved?

14 A. Yes.

15 Q. And that would be provided -- Consolidated's
16 proposal is to provide that to the Department and the
17 Board, correct?

18 A. Correct.

19 Q. And that wouldn't -- would that need to be
20 filed confidentially?

21 A. I would think it would.

22 Q. Any particular concerns with making that
23 document public?

24 A. I would have to look at the document. Right
25 off the top of my head I don't know.

1 MS. BOUFFARD: I think that's everything
2 I had.

3 CHAIRMAN VOLZ: Thanks. Any cross?

4 MR. PHILLIPS: Nothing.

5 MR. BURKE: I have just a couple
6 clarification questions. Sure. My apologies. I
7 know we're almost done.

8 CROSS EXAMINATION

9 BY MR. BURKE:

10 Q. Just to clarify for the record, Mr. Shultz, I
11 want to make sure I understand what you said with respect
12 to the 14 percent reinvestment requirement and the four
13 companies that would be included. You said both ILECs.
14 So you mean Telephone Operating Company of Vermont and
15 FairPoint Vermont, Inc. and you said the two other
16 companies?

17 A. Enhanced Communications.

18 Q. Enhanced Communications of Northern New
19 England and UI long distance?

20 A. UI. Thank you. I wanted to call it unity and
21 I knew that wasn't correct.

22 Q. Just in response briefly to what the Chair
23 questioned Mr. Jeanson about on prior notice of synergies
24 before they are completed by the company, is it correct
25 that the company's surrebuttal testimony did not object to

1 that particular recommendation?

2 A. That is correct.

3 Q. So the company itself doesn't have any
4 concerns with that recommendation?

5 A. Well --

6 Q. Acknowledging that it would likely be filed
7 confidentially?

8 A. Acknowledging it would be filed
9 confidentially. Correct.

10 MR. BURKE: And that's all I have.

11 CHAIRMAN VOLZ: Thanks.

12 BOARD MEMBER HOFMANN: Mr. Shultz,
13 sorry, you aren't quite done. It's so close to the
14 end.

15 MR. SHULTZ: It's tough being last.

16 BOARD MEMBER HOFMANN: You actually
17 brought something up yesterday you indicated that the
18 FCC had made their ruling and I don't know if you had
19 a chance to read it last night.

20 MR. SHULTZ: I have not.

21 BOARD MEMBER HOFMANN: Well Mr. Young
22 alluded to it earlier and asked a question, but it
23 basically says that Consolidated has no time frame as
24 to when they will do this, but your goal is to
25 provide at least 20 megabits download speeds to 90

1 percent of its broadband customers and it plans to
2 provide the same level of service in the FairPoint
3 service areas. That's a commitment you made to the
4 FCC?

5 MR. SHULTZ: Well that's -- I don't
6 think we characterized it as a commitment, but what
7 we did say was that we were at 90 percent for 20 meg
8 in our existing 11 states and our goal would be to
9 get the new states, all 17 of them, up to that same
10 level, but we didn't give a time frame because it
11 took us a long time to get to 20 meg for our existing
12 property as well. So until we get in and understand
13 what the network is and what it looks like and where
14 we can grow things quickly I mean it is going to take
15 some time to do that, but ideally we would like to
16 get everybody up to 20 meg over time.

17 BOARD MEMBER HOFMANN: So that's the
18 plan but no time frame?

19 MR. SHULTZ: That's the plan but no time
20 frame.

21 BOARD MEMBER HOFMANN: Thank you.

22 MR. SHULTZ: You're welcome.

23 MR. YOUNG: You were talking earlier
24 about the two year copper replacement concept. Do
25 you recall that?

1 MR. SHULTZ: The two year total
2 replacement of copper, yes.

3 MR. YOUNG: Right. Is there a more
4 realistic time frame? You stated that it wasn't
5 practical. Is there a more realistic time frame for
6 that or do you think a total replacement is
7 unnecessary?

8 MR. SHULTZ: I think it's unnecessary.
9 We can achieve with bond pairing -- or pair bonding
10 we can achieve 15 meg to a certain degree. So
11 between 15 to 20. So I think there's a lot of useful
12 life left in copper and we would want to take
13 advantage of that and not leave it stranded. So I
14 think there's opportunity there.

15 MR. YOUNG: I think I'll just leave it
16 at that. Thank you.

17 CHAIRMAN VOLZ: Any followup to our
18 questions?

19 MS. BOUFFARD: I don't have any
20 followup. I do have just a few clean-up items while
21 we're still on the record.

22 CHAIRMAN VOLZ: No. I mean any for this
23 witness?

24 Ms. BOUFFARD: No I don't.

25 CHAIRMAN VOLZ: Anybody else have --

1 MR. PHILLIPS: No.

2 CHAIRMAN VOLZ: Okay. You're excused.

3 Go ahead.

4 MS. BOUFFARD: We had indicated that we
5 would provide a copy of the petition with the two
6 attachments which would include the merger agreement
7 to put it into the record. We have that in paper
8 copies. We have it on CD. Whatever the Board's
9 preference is. Do you want both?

10 MR. YOUNG: I think we just need one for
11 the record.

12 CHAIRMAN VOLZ: A paper copy for the
13 record.

14 BOARD MEMBER HOFMANN: What will the
15 exhibit number be?

16 MS. BOUFFARD: We're going to call that
17 Joint Petitioners Exhibit 1.

18 CHAIRMAN VOLZ: Okay.

19 MS. BOUFFARD: And we also have -- we
20 indicated we would provide the financial model as
21 well as the assumptions for it and those were
22 provided in the context of discovery. So I've also
23 provided the discovery response just because it
24 identifies what's in those two Excel files. So we
25 have identified those as -- these are confidential

1 and they are Consolidated Exhibit 1.

2 CHAIRMAN VOLZ: Okay. So those two
3 things you have identified so far those are admitted
4 and you have more?

5 (Exhibits marked Joint Petitioners 1 and
6 Consolidated 1 and 2 were admitted into the
7 record.)

8 MS. BOUFFARD: No. Just those two
9 items.

10 CHAIRMAN VOLZ: Great. Any other --

11 MS. BOUFFARD: I'm sorry. They were
12 broken up. So it's confidential exhibit 1 and
13 confidential exhibit 2. One is the model. Two is
14 the assumptions to the model.

15 CHAIRMAN VOLZ: All right. Thank you.
16 Do we -- is there a briefing schedule already set?

17 MR. BURKE: There is.

18 CHAIRMAN VOLZ: Anything else we need to
19 talk about then? Anything else we need to do today?

20 MR. BURKE: I have nothing.

21 CHAIRMAN VOLZ: Okay. I guess we're
22 done. Thank you.

23 (Whereupon, the proceeding was
24 adjourned at 2:50 p.m.)
25

C E R T I F I C A T E

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2
3
4
5 I, JoAnn Q. Carson, do hereby certify that
6 I recorded by stenographic means the technical hearing re:
7 Docket Number 8881 at the Susan M. Hudson Hearing Room of
8 the Public Service Board, 112 State Street, Montpelier,
9 Vermont, on May 9, 2017, beginning at 9 a.m.

10 I further certify that the foregoing
11 testimony was taken by me stenographically and thereafter
12 reduced to typewriting, and the foregoing 200 pages are a
13 transcript of the stenograph notes taken by me of the
14 evidence and the proceedings, to the best of my ability.

15 I further certify that I am not related to
16 any of the parties thereto or their Counsel, and I am in
17 no way interested in the outcome of said cause.

18 Dated at Burlington, Vermont, this 11th day
19 of May, 2017.

20 _____

21
22 JoAnn Q. Carson
23 Registered Merit Reporter
24 Certified Real Time Reporter
25