Whitney, Judith

From: Stephen Whitaker <whitaker.stephen@gmail.com>
Sent: Friday, June 02, 2017 1:28 PM
To: PSB - Clerk
Cc: Purvis, Clay
Subject: additional comments on FairPoint acquisition

Many of these comments were first delivered at the Montpelier public hearing of the Public Service Board on the Consolidated/FairPoint merger/acquisition Docket, at which no press were in attendance. Transcript available from PSB.

COMMENT
Once again, Digger only scratches.

There are not one but two open but languishing investigations of FairPoint's 911 system reliability.

The 'Settlement' is an often used maneuver by the Department to short circuit a full investigation, hearings and cross examination by impartial expert witnesses. This was done also in the last service quality investigation in 2014 in Docket 8390 where the so called benefits or concessions to ratepayers were that FairPoint would 'agree to accept' $50Million in Federal CAF II funds (aka corporate welfare) to continue building obsolete ADSL service. This is direct conflict with the statutory policy and goals. The Department also agreed to co-petition the Board to relax regulation for FairPoint to make it easier to compete with Comcast, whose VOIP telephone service, unlike FairPoint's, cannot complete 911 calls during an extended power outage.

The Board should immediately appoint an Independent Public Advocate and fully litigate the Consolidated FairPoint merger/acquisition and proposed settlement. To not do so would be a gross dereliction of duty and would continue the well-worn pattern of DPS and PSB actions, or failure to act, contributing to the erosion of the public "faith and trust in government".

For the Department which has repeatedly failed to complete a credible or statutorily compliant Ten Year Telecommunications Plan, to now agree to settle the acquisition investigation without explicit resolutions of the issues of open access to dark fiber, pole attachment rates and anti-competitive obstruction of make-ready for other fiber building utilities, the ongoing deficiencies in the $11M enhanced 911 contracting boondoggle, or how to meet the statutory goal of Fiber to every Vermont home and business by 2024 (FTTP) this is just more par for the course.

The new Commissioner of Public Service was immediately prior the General Counsel for the Public Service Board, where she oversaw and presumably approved the FairPoint Incentive Regulation Plan (IRP) which term extends until 2019. Such approval was a violation of law absent the statutorily required finding of consistency with the Ten Year Plan.

None of these actions of the Department are consistent with the policy statements and goals of 30 VSA 202c, a detailed strategy to implement those goals conspicuously missing from the Ten Year Plan as required under 30 VSA 202d.

The new Public Service Board Chairman should make addressing of these issues and an explicit 'course correction' his highest priority as he takes over the compromised Public Service Board. He can use the authority of the office to begin to remedy the comparable deficiencies of the Department of Public Service by refusing to allow the ongoing inadequate representation of the public's interest by appointing Independent Public Advocates as often as necessary until the problems are remedied.

This must be priority one if Governor Scott's campaign promise to "restore faith and trust in government" is to become anything more than campaign rhetoric.