STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Petition of the Department of Public Service for an Investigation into the Service Quality Provided by Telephone Operating Company of Vermont, Inc. d/b/a Consolidated Communications, Inc.	)))))	Case No. 18-3231-PET

PREFILED DIRECT TESTIMONY OF
CLAY PURVIS

ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVCE

APRIL 26, 2019

Summary: The purpose of Mr. Purvis's testimony is to present the Department of Public Service's position in the service quality investigation that is the subject of this proceeding. Mr. Purvis introduces the Department's supporting witnesses and the subject matter areas in which they will provide testimony. Mr. Purvis' testimony summarizes the reasons why Consolidated has failed to comply with service quality standards and proposes automatic enhanced bill credits as the most effective remedy through which to improve service quality.

Direct Testimony
of
Clay Purvis

Q1. Please introduce yourself and summarize your testimony.

A1. My name is Clay Purvis. I am the Director for Telecommunications and Connectivity in the Telecommunications and Connectivity Division of the Vermont Department of Public Service ("Department"). I have worked at the Department for approximately five years and have been Director for approximately two years. I previously served as the Department's Connectivity Development Manager and prior to that, its Telecommunications Infrastructure Specialist.

The purpose of my testimony is to introduce the subject matter experts testifying on behalf of the Department, explain the importance of service quality in the telecommunications space and summarize the causes of Telephone Operating Company of Vermont, LLC d/b/a Consolidated Communications, Inc.'s ("Consolidated") failure to comply with service quality standards. My testimony ultimately recommends that enhanced bill credits be imposed in lieu of penalties because they are the best means through which to improve service quality.

Q2. Have you previously testified before the Vermont Public Utility Commission ("Commission")?

A2. Yes. I previously testified in Case No. 18-1543-PET, which involved termination of service for Vanu Coverage Co. I also previously testified in Docket 8881, involving the joint petition of Consolidated and FairPoint Communications, Inc. ("FairPoint") for approval of a transfer of control of FairPoint to Consolidated by merger. I also testified in Docket 8837, addressing the Incentive Regulation Plan of FairPoint and in Docket 8428, involving the sale of the Stowe and Jefferson Cable Systems.

Q3. Please identify the witnesses other than yourself that will submit testimony on behalf of the Department and the scope of their testimony.

A3. In addition to my testimony, the Department will submit testimony from Carol Flint, the Department's Director of Consumer Affairs and Public Information. Ms. Flint will provide the nature and number of complaints received by the Department regarding Consolidated's service quality and detail the service quality measures under which Consolidated operates. The Department will also submit testimony from Scott Wheeler, the Department's Utilities Finance and Economics Analyst. Mr. Wheeler's testimony analyzes and summarizes the financial health of Consolidated. Finally, Fred Goldstein and Barlow Keener of Interisle Consulting Group, Inc. will provide testimony from a technical perspective relating to Consolidated's operations and service quality generally.

Q4. Please explain the basis of the Department's petition seeking a service quality investigation.

A4. Consolidated has failed to fulfill the commitments it made to regulators and to its customers to provide good quality telephone service. Since merging with FairPoint in

2017, Consolidated customers, particularly rural customers with no competitive alternative, continue to suffer from very poor telephone service as the company's response time for repairing troubles has increased to unacceptable levels.

Regulatory approval of the merger between Consolidated and FairPoint was based, in part, on Consolidated's commitment to provide superior service quality through its established system for identifying and remediating areas of the FairPoint network that experienced consistent out-of-service problems. Consolidated assumed FairPoint's obligation to provide certain service quality standards identified in Docket 5903 ("5903 Standards"). All companies offering local exchange service in Vermont operate under 5903 Standards. The Department has found other local exchange providers provide a sufficient level of service quality to their customers. In fact, many rural local exchange providers ("RLECs") generally exceed the baselines contained in the 5903 Standards, with the exception of Telephone Operating Company of Vermont, LLC (Consolidated's RLEC).

Shortly after the merger with FairPoint was finalized in July 2017, the Department witnessed a sudden and significant decline in Consolidated's service quality metrics for "residential out-of-service installation troubles cleared within 24 hours" ("TC24"). Consolidated failed to meet the baseline quality standard of 70% for the TC24 metric by significant margins. The Department also saw a substantial increase in consumer complaints related to the "installation appointments met" metric. Consolidated's failure to meet both these metrics persisted into the fall of 2018, more than a year after the merger was finalized.

Department staff consulted with Consolidated numerous times to discuss service quality and action plans associated with improving Consolidated's service quality metrics. The Department acknowledged that the present service quality troubles Consolidated is experiencing are not new. As Consolidated's predecessor, FairPoint continuously failed to meet numerous 5903 metrics. However, it was evident to the Department that service quality has continued to deteriorate on Consolidated's watch in direct contradiction to Consolidated's commitment to improve service quality. In order to ensure the protection of Consolidated customers who make up some of the more vulnerable populations in the state, the Department concluded that investigation into Consolidated's failure to comply with service quality metrics to be of the utmost importance.

Q5. Why is good service quality important?

A5. Telephone service is a basic necessity and Vermont consumers without a competitive alternative rely exclusively on Consolidated to provide it. Changes in the telephony market over the last two decades have fundamentally altered the business model for phone companies. Mobile wireless voice service and Voice over IP ("VoIP") now provide competitive voice alternatives for most Vermonters. Increasing numbers of Vermonters are choosing to leave Consolidated for one of these competitive alternatives. Consolidated's line data suggests that, despite operating the largest network in Vermont, it has lost its market dominance. Yet many Vermont consumers, specifically rural consumers, lack a competitive alternative for voice service and must rely on Consolidated to keep them connected to their families, communities, and 911 emergency service. It is undisputed that consumers deserve phone service that meets minimum standards of quality.

Q6. Please describe how service quality is measured.

A6. Service quality is measured by the 5903 Standards. As further outlined in the testimony of Carol Flint, TC24 is among the most important measures of a telecommunications provider's service. TC24 measures the percentage of consumer outages that are cleared within 24 hours. The testimony of Fred Goldstein and Barlow Keener details how and why Consolidated has continuously failed to meet the TC24 metric.

Carriers are also measured on installation appointments met – residence. While Consolidated is meeting this metric, as Carol Flint and Fred Goldstein and Barlow Keener explain, consumer complaints received by the Department suggest that appointments are being scheduled weeks ahead in an effort to meet the appointments met metric. There appears to be a disconnect between the service quality data, which is positive, and consumer expectations for new install appointments that are, on the whole, negative.

Q7. What happens when a carrier does not meet the 5903 Standards?

A7. As explained in the testimony of Carol Flint, companies that do not adequately meet the 5903 Standards must submit an Action Plan to address performance that falls below an Action Level. The Action Level for TC24 is 60% and 75% for installation appointments met – residence. This means that companies must make repairs within 24 hours 60% of the time and install service on the date and time it is scheduled 75% of the time. If a company has an Action Plan in place and fails to bring its service quality performance up to a Baseline Standard in a certain year (the Baseline Standard for TC24 is 70%; installation appointments met – residence is 90%), a company is then subject to penalties under 30 V.S.A. § 30.

Q8. Please describe the history of Consolidated's service quality performance.

A8. Poor service quality performance has been a chronic problem for Consolidated and its predecessors. After moving to the 5903 Standards, Consolidated's predecessor, FairPoint, consistently missed the TC24 metric. FairPoint's service quality was the subject of several Commission dockets and workshops, as detailed in the prefiled testimony of Carol Flint.

Service quality was identified as a chief concern of both the Commission and the Department in Docket 8881, and the Commission imposed several conditions on the company designed to compel an increase in the TC24 rate. These conditions included a reinvestment of at least 14% of Consolidated's gross revenues back into the network and a capital investment commitment on average of $1 million over three years used specifically to target areas with on-going service quality concerns.

The Commission approved the merger of Consolidated and FairPoint based partly on Consolidated's commitment to provide superior service quality through its established system for identifying and remediating areas of a network that experience consistent out-of-service problems. Despite the safeguards put into place in the Certificate of Public Good issued to Consolidated and Consolidated's assurance to improve service quality, the company's metrics had plummeted by quarter three of 2017 and continued to decline through 2018.

Q9. What does the Department believe to be the cause of Consolidated's failure to provide adequate service quality?

A9. As further outlined in the testimony Fred Goldstein and Barlow Keener, the Department has determined the primary causes contributing to Consolidated's failure to provide adequate service quality to be two-fold. First, Consolidated lacks sufficient staff to resolve the number of troubles for outages and make timely repairs and installations. Second, it is evident that despite regulatory requirements to reinvest in its network, Consolidated has failed to reinvest in a way that effectively improves service quality. As posited in the testimony of Fred Goldstein and Barlow Keener, both of these causes ultimately reflect an undercurrent of poor management decisions.

Q10. Has Consolidated submitted service quality Action Plans as required under Docket 5903?

A10. Yes. As it became apparent that service quality metrics were dropping at an alarming rate, in the third quarter of 2017, Consolidated began submitting quarterly service quality reports to the Department. Since August 2018, Consolidated has also submitted weekly service quality reports to the Department. The Action Plans were submitted in order to track and ultimately improve service quality. Additionally, as detailed in the testimony of Fred Goldstein and Barlow Keener, Consolidated has committed to taking specific actions related to its network and workforce aimed to improve service quality. Despite these commitments, almost two years after its merger with FairPoint was approved, service quality metrics have failed to advance in a significant way.

Q11. Are penalties against Consolidated merited in this case?

Q11. Yes. Consolidated promised to improve service quality and has failed to do so in the almost two years it has been operating the Vermont network. As detailed in the testimony of Carol Flint and Fred Goldstein and Barlow Keener, Action Plans submitted and implemented over the course of two years have failed to amount to any material improvements. The Department has continually worked to motivate Consolidated to improve service quality to no avail. Consolidated has blatantly disregarded its service quality obligations and its customers continue to suffer from lack of adequate telephone service. The time to reverse course is well overdue, and penalties are the next step to encourage Consolidated to provide good telephone service for those customers who need it most. It is for these reasons penalties are absolutely merited.

Q12. Does the Department have a recommendation to remedy Consolidated's failure to comply with service quality standards?

A12. Yes. While penalties are merited in this case, Consolidated is in a unique position in that it continues to lose customers, but retain a monopoly market share in primarily rural areas where its remaining customers have no viable telephone service alternative. Therefore, any remedy imposed on Consolidated should instead be directed toward improving service for rural consumers and compensating those customers when the company fails to meet its service quality obligations. The Department therefore recommends that the Commission require Consolidated to provide customers residing in high-cost exchange areas with an automatic enhanced bill credit of $5 per day for troubles not cleared within 24 hours.

Q13. Why wouldn't all Consolidated customers receive enhanced bill credits?

A13. Because Consolidated customers who reside in high-cost exchange areas are at a significant disadvantage because they lack a competitive alternative to telephone service. Section 7515 of Title 30 defines a telephone exchange as a high-cost area "if the exchange is served by a rural telephone company as defined by federal law, or if the exchange is designated as a rural exchange in the wholesale tariff of a

[RBOC]…or a successor company to an RBOC." Consolidated is not defined as a rural telephone company under federal law, but is considered the successor of an RBOC that designates certain exchanges as rural in its wholesale tariff. Applying enhanced bill credits to high-cost exchanges will bring parity to Consolidated's treatment of its urban and rural customers.

Q14. Why are enhanced bill credits recommended over penalties?

A14. The Department recommends enhanced bill credits because unlike penalties, they directly target the harm caused to Consolidated customers experiencing poor telephone service. An enhanced bill credit will achieve two things that will ultimately benefit customers. First, it will provide compensation to adversely affected customers with no competitive alternative. Second, it will encourage Consolidated to repair service more quickly.

Q15. Can Consolidated afford to provide its customers with enhanced bill credits?

A15. Yes. As explained in the testimony of Scott Wheeler, Consolidated generates sufficient cash flow and has a dividend policy, both of which indicate that Consolidated has the capacity to invest in service quality improvement initiatives.

Q16. Are there alternatives available to Consolidated in lieu to paying enhanced bill credits?

A16. Yes, there are two existing alternatives Consolidated could implement in lieu of paying enhanced bill credits. One, Consolidated could invest in increasing its staffing levels which, as the testimony of Fred Goldstein and Barlow Keener explains, has a positive effect on service quality metrics. Two, Consolidated could live up to its commitments under Docket 8881 and further invest capital targeting areas with on-going service quality concerns. However, the Department believes that enhanced bill credits will ultimately achieve both these objectives.

Q17. Has the Department recommended imposing enhanced bill credits in past service quality proceedings?

A17. Yes. In Docket 8701, which concerned a petition filed by FairPoint to modify certain service quality reporting requirements under Docket 5903, the Department recommended that FairPoint's proposed changes to service quality metrics be granted so long as certain changes were implemented to ensure that consumers receive reasonable service quality. One specific adjustment the Department proposed was implementation of a system of automatic, enhanced bill credits for outages that affect customers without competitive alternatives.

The Commission agreed to accept FairPoint's proposed changes to its service quality repair metrics only if they were modified by the Department's recommendations, including its recommendation of imposing an automatic bill credit. The Commission reasoned that the Department's proposed adjustments were necessary to help protect ratepayers who could be harmed as a result of relaxing the service quality metrics. The Commission also stated that the addition of enhanced bill credits would improve FairPoint's overall proposal by providing compensation to adversely affected customers and creating greater incentives to repair service more quickly. Although the Commission ultimately dismissed the petition on request by FairPoint and the new metrics were not adopted, the Department continues to believe that enhanced bill credits are the best method through which to improve service quality.

Q18. Does this conclude your direct testimony?

A18. Yes.