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

JOINT PREFILED REBUTTAL TESTIMONY OF FRED GOLDSTEIN AND BARLOW KEENER

ON BEHALF OF THE
VERMONT DEPARTMENT OF PUBLIC SERVCE

JULY 31, 2019

Summary: Mr. Goldstein and Mr. Keener's rebuttal testimony discusses why the TC24 metric remains relevant, that certain proposals made by Consolidated Communications of Vermont Company, LLC (formerly Telephone Operating Company of Vermont, LLC) d/b/a Consolidated Communications ("Consolidated") are outside the scope of this proceeding and further details the Department's recommendation to impose an enhanced bill credit.

Joint Rebuttal Testimony
of
Fred Goldstein and Barlow Keener

Q1. Please state your name and occupation.

A1. My name is Fred Goldstein. I am a Principal of Interisle Consulting Group LLC ("Interisle"). My business address is PO Box 920362, Needham MA, 02492.

Q2. Have you previously submitted testimony in this proceeding?

A2. Yes, I submitted prefiled direct testimony on behalf of the Department of Public Service ("Department") in this proceeding on April 26, 2019.

Q3. Please state your name and occupation.

A3. My name is Barlow Keener. I am an attorney with Keener Law Group and in this matter, I am working as a consultant to Interisle.

Q4. Have you previously submitted testimony in this proceeding?

A4. Yes, I submitted prefiled direct testimony on behalf of the Department in this proceeding on April 26, 2019.

Q5. Please characterize Consolidated's recent performance on the Troubles Cleared in 24 Hours ("TC24") metric and whether Consolidated has addressed concerns regarding service quality.

A5. Consolidated's recent performance on the TC24 metric – specifically from April through July 2019 – is a significant improvement over the level of service quality previously reported. However, it is too early to conclude that Consolidated has addressed the underlying issues that led to the sustained period of very poor performance beginning in 2018. Further, the company has yet to meet the 70% TC24 baseline for residential customers. Consolidated also has not yet shown how it performs during the worst weather months in Vermont (late summer through the winter months). Therefore, more time is necessary to assess whether the actions taken to address the root causes of the poor service quality (e.g., staffing and work process issues, network improvements, etc.) have been successful.

Consolidated seems to agree in some respects. It states that the benefits of the network investments and improvements pursuant to the Docket 8881 Memorandum of Understanding capital investment requirements, including the Incremental Maintenance Plan targeted at persistent residential trouble zones, and other actions such as changes to collective bargaining agreement rules, have yet to manifest. Investments and improvements to the network should result in service quality improvements. Despite such investment and improvements, the service quality benefits for rural customers, especially those relying on a 30+ year-old loop plant, are less certain.

Q6. Does Consolidated's testimony go beyond the issues under investigation in this case?

A6. Yes. In its September 26, 2018 Order, the Commission stated that the purpose of this investigation is to examine Consolidated's compliance with the TC24 service quality metric and service installation complaints for residential customers. The focus of this proceeding is therefore narrow in scope. In its initial testimony, Consolidated attempted to shift the focus of the investigation from its failure to meet the TC24 metric to proposing changing or eliminating the metric altogether. Consolidates stated that the metric is outdated, irrelevant and unfair in light of both competitive changes in the marketplace and its application solely to incumbent local exchange carriers ("ILECs").

When Consolidated merged with FairPoint Communications ("FairPoint") in 2017, it agreed, as a condition of approval of the merger, to meet the Commission's service quality standards, including the TC24 metric. The commitment Consolidated made remains despite the company's efforts to convince the Commission otherwise. Were the Commission to entertain the idea of changing or eliminating the metric, Consolidated gives no valid reason to do so. Its claims that the TC24 metric is outdated and unfair do not sufficiently explain why the metric should be modified.

Q7. Notwithstanding A6 above, do you agree with Consolidated that the TC24 metric is no longer appropriate?

A7. No. As we demonstrated at length in our prefiled direct testimony, the TC24 metric not only remains appropriate, but is essential to ensure reasonable service quality for residential customers, particularly for those who live in rural areas of the state and lack a competitive voice alternative. Being without service for more than 24 hours is a serious hardship, and in some cases, even life-threatening. Even if Consolidated met the 70% baseline level for TC24 (which it does not), it is likely that a significant number of customers will still experience restoration times beyond 24 hours.

Q8. Do you agree with Consolidated's assertion that most residential customers have a competitive voice alternative to Consolidated's wired service?

A8. No. Consolidated states that there is at least one competitive voice provider (wireline or wireless) in every exchange in Vermont. To support this statement, Consolidated relies on porting information and states that every exchange except the Rupert exchange has had a telephone number ported to another company in the past two years. However, Consolidated's data does not show whether the competitive voice providers serve all customers in each exchange. Consolidated acknowledges that wireline alternative voice service only reaches 74% of addresses in Vermont and that in smaller rural cities and towns, accessibility to competitive landline providers likely only reaches the more populated downtown areas and corridors of those communities. It is unknown what number or percentage of Consolidated's rural customers have a competitive voice alternative because the company did not provide such information. When asked where competition exists, Consolidated produced a set of thousands-block assignments from the North American Numbering Plan, applicable to mobile carriers and competitive local exchange carriers ("CLECs"). The historical acquisition of number blocks provides no information about the current or future competitiveness of an area because often times the numbers have a limited purpose such as unbundled interoffice transport. Even if mobile carriers or CLECs serve part of a certain area, they do not necessarily serve all or even most of the area because they are not compelled to do so.

Although wireless service can be a legitimate competitive voice alternative to Consolidated's wired service in urban areas of the state, it is not a competitive alternative in rural areas. Where service is spotty, or worse, provides so weak of a signal that it constitutes no service at all, it cannot be considered a true competitive voice alternative. Consolidated presented no information about the geographic coverage and reliability of wireless service in rural areas, and the Department's own wireless coverage drive test results show that wireless carriers' claimed coverage areas are exaggerated. Despite Consolidated's claims to the contrary, it is impossible at this time to know whether wireless service can be used by rural customers in smaller cities and towns where access to service does not extend to their home.

Q9. Please explain the correlation you found between staffing levels and Consolidated's ability to handle repair loads.

A9. When Consolidated first took control from FairPoint in 2017, its outside plant staffing level decreased. According to Consolidated, this was due to a combination of layoffs and planned and unplanned retirements. Service quality metrics subsequently declined throughout 2018. A marked improvement in service quality was noted as more contractors were hired in late 2018 and early 2019. It therefore appears that there is a visible correlation between contractor levels and Consolidated's ability to meet the TC24 metrics.

Q10. Do you agree with Consolidated that a "troubles cleared in 48" ("TC48") metric is a more relevant and preferred metric for residential customers?

A10. No. Consolidated has presented no support for its statement that a 48-hour standard is more appropriate or relevant than a 24-hour standard apart from its concerns over competitive and financial pressures. It is axiomatic that a 24-hour threshold is the appropriate standard for a customer. Consolidated's own data about customers who "self-select" their restoral date beyond 24 hours after loss of service shows that an overwhelming percentage of customers want their service restored as soon as possible. In our prefiled direct testimony, we showed that the TC24 metric is absolutely the metric wanted and needed by rural residential customers.

Q11. Did Consolidated conduct adequate due diligence regarding service quality obligations before its 2017 merger with FairPoint?

A11. No. When asked to discuss the diligence it conducted for purposes of Docket 8881, Consolidated responded that it conducted diligence, but did not state specifically what that diligence entailed. Although it was asked to do so, Consolidated did not indicate whether it did any pro forma financial modeling for Vermont nor did it explain whether and what type of analysis it conducted for outside plant staffing needs in order to provide reasonable service quality, including meeting the TC24 metric.

When it Consolidated merged with FairPoint, the company had little, if any, experience with Regional Bell Operating Company ("RBOC") regulatory policies and requirements. The service quality rules in Consolidated's other jurisdictions are generally not as rigorous as they are in Vermont, and it is evident that Consolidated's practices in other states and its experience from prior transactions did not prepare the company for conducting business in Vermont. Consolidated implicitly concedes that it was a mistake to reduce outside plant staff subsequent to the merger. Adequate service quality performance is not just a function of staffing; it is the essential element. There is a direct correlation between the number of outside plant technicians and Consolidated's TC24 performance, which is proven when comparing its performance on the metric during periods when outside plant staffing was reduced.

It is unclear whether Consolidated conducted an adequate analysis of the impact of differing federal Universal Service Fund ("USF") rules in Vermont and whether it would have sufficient financial resources to meet service quality obligations. As an

RBOC in Vermont, Consolidated is not eligible for federal universal service local exchange subsidies but for the Connect America Fund grants that it accepted as a price-cap carrier. As a "carrier of last resort," Consolidated is required to offer service to all customers and customer classes in the state. Without USF subsidies, it is significantly more difficult for Consolidated to achieve positive financial results when required to serve all customers in the state, including rural residential customers whose costs on average may be higher than service to non-rural customers.

Q12. Is the Department's $5 bill credit recommendation punitive and discriminatory?

A12. No. In its testimony and in responses to discovery requests, Consolidated states that the proposed bill credit is unfair, discriminatory and punitive. It states in a discovery response that, "The 'incentive' bill credit mechanism as proposed goes well above the existing requirement in Rule 7.600 and is discriminatory. For example, a customer with a basic residential voice service at $17.00 who has an outage under the current rule would receive a credit of $1.70 for a 3-day outage and under the proposed incentive the customer would receive a $15, credit almost the entire month's bill."

Although the recommended bill credit would apply only to Consolidated, it is not discriminatory because it is being proposed as part of a single-party Commission investigation, not a multi-party adjudication or rulemaking. It would not be tied to or replace the existing bill credit, which applies to all ILECs under Commission rules, and which is intended to compensate customers for lost service. Instead, the proposed bill credit would be a new, separate credit designed to give Consolidated a financial incentive to meet the TC24 metric. It is not punitive because it would only be applied if Consolidated failed to clear residential troubles within 48 hours. Consolidated's performance on the TC24 metric shows that it does not have the necessary incentive to meet the standard. The recommended enhanced bill credit would give the company that additional incentive.

Q13. Is the proposed bill credit arbitrary?

A13. No. The proposed bill credit was derived based on consideration of the average length of time to clear troubles for rural customers, the appropriate level of incentive to discourage extended loss of service and fairness to Consolidated. It is important to note that the credit would not take effect until after the first 48 hours of loss of service.

Q14. Do you have any recommendations for the Commission?

A14. Yes. First, as discussed in our initial testimony, the Commission should enforce the existing customer bill credit in the manner suggested in order to make the credits more effective for customers. To that end, Consolidated should be required to apply credits to eligible customers' accounts automatically rather than requiring customers to request a credit. Second, the Commission should adopt our recommendation for the creation of new $5 bill credit, in the manner proposed in our initial testimony.

Q15. Does this conclude your joint prefiled direct testimony?

A15. Yes.